1-13-88
Vol. 53 No. 8
Pages 773-854

federal register

Wednesday
January 13, 1988

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 88–4 of December 17, 1987

Determination Pursuant to Section 620E(e) of the Foreign Assistance Act of 1961, as Amended

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to Section 620 E(e) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2375(e), I hereby certify that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

You or your delegatee are authorized and directed to publish this determination and certification in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, December 17, 1987.

[FR Doc. 88–720
Filed 1–12–88; 9:32 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations; Loss-Sharing Agreements

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts an amendment to the regulation relating to the reversal of previously accrued financial assistance under Farm Credit System (System) loss-sharing agreements. The amendment implements provisions of the Agricultural Credit Act of 1987 (Pub. L. 100–233) and will facilitate the conversion of certain accounts payable of contributing banks into accounts payable of the Financial Assistance Corporation.

EFFECTIVE DATE: The amendment shall become effective in January 11, 1988.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The Agricultural Credit Act of 1987 was enacted on January 6, 1988. Section 6.9(e) of the Farm Credit Act of 1971 (1971 Act), as added by the Agricultural Credit Act of 1987, provides that on the date of the chartering of the Financial Assistance Corporation, which shall be not later than 5 days after the date of enactment of the Agricultural Credit Act of 1987, certain actions will be taken by System institutions which previously provided or received contributions under System capital preservation agreements for the calendar quarter ending September 30, 1986. On the date of chartering, the accounts payable on the books of contributing System banks shall be converted into accounts payable on the books of the Financial Assistance Corporation. Similarly, on that date, the accounts receivable on the books of receiving institutions shall be converted into accounts receivable from the Financial Assistance Corporation.

Under an existing FCA regulation at 12 CFR 614.4341, System institutions that made or received financial assistance in the form of cash or accruals in accordance which the activation of capital preservation agreements prior to October 1, 1986, are prohibited from reversing such financial assistance. The Board has determined that 12 CFR 614.4341 should be amended effective on the date of the chartering of the Financial Assistance Corporation, in order to enable the provisions of section 6.9(e) of the 1971 Act to be implemented as expeditiously as possible. Under the amended regulation, capital preservation agreement accounts payable and receivable can be converted by the affected System banks in accordance with the provisions of section 6.9(e).

The amendment to the regulation will not alter the financial condition of any of the recipient institutions since they will continue to reflect accounts receivable from the Financial Assistance Corporation in the same amount as are currently reflected on their books. The contributing banks will be benefited by this change since their financial condition will be improved by the amount of the obligations that are transferred to the Financial Assistance Corporation. In amending the regulation, the Board also eliminated references to the Farm Credit System Capital Corporation since the Agricultural Credit Act of 1987 provides for the revocation of its charter.

In accordance with 5 U.S.C. 553(b)(B) the Board, for good cause, finds that notice and public procedures on the amendment to this regulation are impracticable, unnecessary, and contrary to the public interest because this amendment implements a statutory provision which was designed to improve the financial condition of certain institutions which had previously contributed financial resources to other System institutions. The amendment will not have a negative financial impact on the institutions which had previously received capital preservation contributions since those contributions will continue to be reflected in their financial statements as accounts payable from the Financial Assistance Corporation. In accordance with 5 U.S.C. 553(d), this regulation is effective prior to the expiration of 30 days after its publication, as a rule which grants exemptions and relieves restrictions currently imposed on certain contributing System banks. Finally, in accordance with section 5.17(b)(2) of the 1971 Act, the Board finds that an emergency exists which requires this final regulation to become effective prior to the expiration of 30 calendar days after it is published in the Federal Register. An immediate effective date is necessary to ensure that contributing banks are able to improve their financial condition as quickly as possible by cancelling certain accounts payable, and thereby strengthening their ability to provide credit services to their borrowers.

List of Subjects in 12 CFR Part 614

Accounting, Agricultural, Banks, Banking, Credit, Rural areas.

As stated in the preamble, Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for Part 614 continues to read as follows:

Authority: 12 U.S.C. 2183, 2199, 2202, 2243, 2244, 2252(a)(10).

Section 614.4341 also issued under 12 U.S.C. 2012(22), 2053, 2072(18), 2093(15), 2122(18), 2216G, 2252(a)(10).

2. In Part 614, Subpart I, Loss-Sharing Agreements, § 614.4341 is revised to read as follows:

Subpart I—Loss-Sharing Agreements

* * * * *

§ 614.4341 Financial assistance.

No institution shall reverse any financial assistance provided under the 37-Bank Preservation Agreement or any other capital preservation/loss-sharing program that was received or accrued prior to July 1, 1986.

Dated: January 11, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88-709 Filed 1-11-88; 5:06 pm]

BILLING CODE 6705-01-M

DEPARTMENT OF TREASURY

31 CFR Part 103

Amendment to the Bank Secrecy Act Regulations Regarding Reporting Requirements of the United States Postal Service

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: Treasury is placing the United States Postal Service under the reporting requirements of the Bank Secrecy Act with respect to cash purchases of postal money orders exceeding $10,000, in response to the problem of drug money laundering through the purchase of postal money orders.

EFFECTIVE DATE: April 12, 1988.

ADDRESS: Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Amy Rudnick, Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 566-8022.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act, Pub. L. No. 91-508, as amended (codified at 31 U.S.C. 5311-5324, 12 U.S.C. 1829b, and 12 U.S.C. 1951-1959), empowers the Secretary of the Treasury to require "financial institutions," as defined in 31 U.S.C. 5312, to keep records and file reports that the Secretary of the Treasury determines have a high degree of usefulness in criminal, tax, or regulatory matters. *See* 31 U.S.C. 5311. The Secretary shall prescribe by regulation which "financial institutions" described in section 5312 will be required to report their cash transactions.

Section 1362(a) of the Anti-Drug Abuse Act of 1986, Pub. L. 99-570 (October 27, 1986), amended 31 U.S.C. 5312 to include the Postal Service in the definition of "financial institutions" under the Bank Secrecy Act. This measure followed testimony before the House Committee on Banking, Finance and Urban Affairs by a "smurf," or drug money launderer, who testified that he has successfuly laundered money by converting the cash proceeds of drug sales into postal money orders in Miami, Florida. The money launderer had taken advantage of the fact that a postal customer could buy an unlimited number of money orders at one time and that the Postal Service was not required to report cash transactions over $10,000 to Treasury under the Bank Secrecy Act, as are banks and other specified financial institutions.

At the same time this problem was being considered by Congress, the Department of the Treasury, through the Criminal Investigation Division of the Internal Revenue Service, concluded that the practice of drug money laundering through postal money orders was not confined to Miami. After review of the situation and discussions between Treasury and the Postal Service, the Postal Service proposed to limit to $10,000 the amount of postal money orders any customer may purchase during one day. *See* 52 FR 27992, July 27, 1987.

While Treasury commended that action, it determined this voluntary measure on the part of the Postal Service did not obviate the need for Treasury to designate the Postal Service as a financial institution subject to the requirements of the Bank Secrecy Act. For example, in order to prosecute a money launderer under section 5324 of Title 31, United States Code, which prohibits "structuring" of transactions to avoid a reporting requirement under the Bank Secrecy Act, the financial institution through which a money launderer structures transactions must itself be subject to Bank Secrecy Act reporting.

Therefore, Treasury issued a Notice of Proposed Rulemaking (52 FR 35562, September 22, 1987) to put the United States Postal Service under the reporting requirements of the Bank Secrecy Act and its implementing regulations. Treasury proposed that the U.S. Postal Service be included within the definition of "financial institution" in 31 CFR 103.11, and that a new paragraph in § 103.22(a) be added to require that the Postal Service file a report of each cash purchase of money orders in excess of $10,000.

As with all other financial institutions, multiple cash purchases totaling more than $10,000 are to be treated as a single transaction if the Postal Service has knowledge that they are by or on behalf of any person during any one day. For purposes of aggregation under the Bank Secrecy Act regulations, "knowledge" includes the concept of "willful blindness." *See United States v. Jewell*, 532 F.2d 697 (9th Cir.), *cert. denied*, 426 U.S. 951 (1976). This concept applies to a person who has deliberately avoided positive knowledge; that is, "if a person has his suspicion aroused but then deliberately omits to make further inquiries, because he wishes to remain in ignorance, he is deemed to have knowledge." *Jewell*, 532 F.2d at 700.

Discussion of Comments

Four comments were received in response to the Notice of Proposed Rulemaking, none of which advocated withdrawal of the proposal. Two of the commenters approved of the proposal, noting that this would close a loophole for money launderers.

A third commenter noted that if the proposal were accepted as put forth in the Notice, banks would no longer be able to place the Postal Service on their exempt lists. Under the present regulations, the Postal Service may be exempted unilaterally as a United States instrumentality. 31 CFR 103.22(b)(iii). Under the proposed rule, the Postal Service would become a nonbank financial institution. Nonbank financial institutions, with one minor exception, may not be placed on an exempt list. *See* 31 CFR 103.22(c). After consideration of the matter, Treasury has adopted this comment. Section 103.22(c) has been amended to permit banks to exempt the Postal Service unilaterally, even though it is a nonbank financial institution.

Treasury also received lengthy comments from the Postal Service. The Postal Service noted its present restriction on the sale of money orders and stated that there would be little likelihood of it ever filing a Currency Transaction Report, except for multiple transactions. The Postal Service indicated that while it did not oppose the rule, it anticipated difficulty in determining when a clerk would be deemed to have knowledge of multiple transactions resulting in a cash purchase by one person of over $10,000 of money orders. It specifically stated that, "[W]e do not believe that a clerk should be required to poll the other clerks in the post office concerning possible prior sales that day before he can sell a customer a large, but permissible, amount of money orders."

Treasury does not require extraordinary measures to ensure that every postal clerk knows what other clerks are doing. Treasury is requiring, however, that every clerk use what knowledge he or she has at the time of the transaction to determine whether to make further inquiry. As stated above, "knowledge" includes the concept of

"willful blindness." Thus, if a clerk has his suspicions aroused, but then deliberately omits to make further inquiries because he wishes to remain in ignorance, he is deemed to have "knowledge." In addition, any system presently in use by the Postal Service should be utilized in order to ascertain whether a multiple transaction in cash purchases of money orders may have occurred.

The Postal Service also requested that Treasury permit a 90-day delay in the effective date in order to provide training and make any necessary changes in manuals or other Postal Service operations. Treasury considers this request to be reasonable and appropriate under the circumstances and has modified the final rule to be effective April 12, 1988.

Finally, the Postal Service urged that all issuers and sellers of money orders be covered under the Bank Secrecy Act reporting requirements. Treasury notes that the definition of "financial institution" presently includes "An issuer, seller, or redeemer of traveler's checks or money orders, except as a selling agent exclusively who does not sell more than $150,000 of such instruments within any given 30-day period." 31 CFR 103.11(g)(4). Thus, all issuers, sellers and redeemers of money orders, with one small exception, are covered under the Bank Secrecy Act regulations.

Conclusion

After consideration of the comments noted above, Treasury has adopted the proposal as originally put forth, with the addition and delayed effective date discussed above.

Executive Order 12291

This final rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement). However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

For the reasons set forth in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: Pub. L. 91–508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b and 1951–1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. 91–508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311–5324).

2. Section 103.11 is amended by adding a new paragraph (g)(9) to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(g) *Financial institution.* * * *

(9) The United States Postal Service with respect to the sale of money orders.

* * * * *

3. Section 103.11 is further amended by adding at the end the following paragraph (r):

§ 103.11 Meaning of terms.

* * * * *

(r) *Postal Service.* The United States Postal Service.

4. The first sentence of § 103.22(a)(1) is amended by revising it to read as follows:

§ 103.22 Reports of currency transactions.

(a)(1) Each financial institution other than a casino or the Postal Service shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than $10,000. * * *

* * * * *

5. Section 103.22(a) is further amended by redesignating paragraph (a)(3) as paragraph (a)(4) and adding a new paragraph (a)(3) to read as follows:

§ 103.22 Reports of currency transactions.

(a) * * *

(3) The Postal Service shall file a report of each cash purchase of postal money orders in excess of $10,000. Multiple cash purchases totaling more than $10,000 shall be treated as a single transaction if the Postal Service has knowledge that they are by or on behalf of any person during any one day.

* * * * *

6. Section 103.22(c) is amended by revising the last sentence to read as follows:

§ 103.22 Reports of currency transactions.

* * * * *

(c) * * * This section does not permit a bank to exempt its transactions with nonbank financial institutions (except for check cashing services licensed by state or local governments and the United States Postal Service) nor will additional exemption authority be granted for such transaction (except transactions by other check cashers).

* * * * *

Dated: December 22, 1987.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 88–539 Filed 1–12–88; 8:45 am]

BILLING CODE 4810–25–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL–3215–1]

National Emission Standards for Hazardous Air Pollutants; Delegation to the State of Alaska Department of Environmental Conservation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: Section 112(d) of the Clean Air Act permits EPA to delegate to the states the authority to implement and enforce the standards set out in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP).

The State of Alaska Department of Environmental Conservation (ADEC) on August 13, 1987, requested a partial delegation of Subpart M under NESHAP. This partial delegation would regulate the disposal of asbestos under Alaska's regulations (18 AAC 60 through 60.910). EPA granted the subdelegation request in a letter dated December 22, 1987.

EFFECTIVE DATE: December 22, 1987.

ADDRESSES: Material in support of this delegation may be examined during normal business hours at the following locations:

Air Programs Branch, (10A–87–15), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Alaska Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811.

FOR FURTHER INFORMATION CONTACT: Armina Nolan, Air Programs Branch, AT–092, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442–1757, FTS: 399–1757.

SUPPLEMENTARY INFORMATION: On April 6, 1973 (38 FR 8820) and on April 5, 1984 (49 FR 13658), pursuant to section 112 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations for asbestos as a National Emission Standard for Hazardous Air Pollutants (NESHAP). Section 112(d) directs the Administrator to delegate authority to implement and enforce NESHAP to any state which has submitted adequate procedures.

The State of Alaska Department of Environmental Conservation (ADEC), in a letter dated August 13, 1987, requested partial delegation of Subpart M under NESHAP. This partial delegation would regulate the disposal of asbestos. After a thorough review of that request, the Regional Administrator of Region 10 approved the partial delegation subject to the conditions set forth in the following letter:

Dennis D. Kelso, Commissioner
Alaska Department of Environmental Conservation, Box 0, Juneau, AK 99811.

Dear Mr. Kelso: This is in response to your letter of August 13, 1987 requesting partial delegation of Subpart M under the National Emission Standards for Hazardous Air Pollutants (NESHAP). This partial delegation as stated in Alaska's 18 AAC 60 regulates the disposal of asbestos.

We have reviewed the rules and regulations of the State of Alaska and have determined that they provide an adequate and effective procedure for ADEC to implement and enforce the disposal of asbestos in accordance with NESHAPs. Therefore, we herby grant this partial delegation to the State of Alaska Department of Environmental Conservation as follows:

Authority for all sources located in the State of Alaska subject to the disposal of asbestos under Subpart M of the National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61).

This delegation is based upon the following conditions:

1. Upon prior approval of the Regional Administrator of Region 10 the Commissioner of the ADEC may delegate his authority to implement and enforce NESHAP to air pollution control authorities in the state when such authorities have demonstrated that they have equivalent or more stringent programs in force.

2. Prior to the supersession of the state regulation for hazardous air pollutants by local ordinances or regulations, as provided for in 18 AAC 60 through 60.910 (Solid Waste Management), such local ordinances and regulations must be approved by EPA. The approval shall take place through the process of subdelegation established in condition 1 of this letter.

3. Alaska's regulations, 18 AAC 60 through 60.910 (Solid Waste Management) require federal facilities to meet substantive state, local and federal requirements and comply with state and local administrative procedures with respect to air pollution control and abatement.

4. Enforcement of this partial delegation in the State of Alaska will be the primary responsibility of ADEC. If ADEC determines that such enforcement is not feasible and so notifies EPA, or where ADEC acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the State of Alaska subject to this partial delegation.

5. Acceptance of this partial delegation of Subpart M of NESHAP does not commit the State of Alaska to request or accept delegation of future standards and requirements or changes to existing standards and requirements. A new request for delegation will be required for any standards not included in the state's request of August 13, 1987.

6. If at any time there is a conflict between a state regulation and a federal regulation (40 CFR Part 61), the federal regulation must be applied if it is more stringent than that of the state. If the state does not have the authority to enforce the more stringent federal regulation, this portion of the delegation may be revoked.

7. If the Regional Administrator determines that a state procedure for enforcing or implementing this partial delegation of Subpart M of NESHAP is inadequate, or is not being effectively carried out, this partial delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation of ADEC.

A notice announcing this partial delegation will be published in the **Federal Register** in the near future.

Since this delegation is effective immediately, there is no requirement that ADEC notify EPA of its acceptance. Unless EPA receives from ADEC written notice of objections within ten days of the date of receipt of this letter, ADEC will be deemed to have accepted all of the terms of this partial delegation.

We are encouraged by ADEC's request for partial delegation and are hopeful that this will lead to further delegation of the applicable NESHAPs.

Sincerely,

Robie G. Russell,
Regional Administrator
cc: L. Verrelli

This Notice hereby notifies the public that a partial delegation of Subpart M under NESHAP for disposal of asbestos to the State of Alaska Department of Environmental Conservation took place on December 22, 1987.

This notice is issued under the authority of section 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et. seq.*).

Lists of Subjects in 40 CFR Part 61

Intergovernmental relations, Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: December 22, 1987.

Robie G. Russell,
Regional Administrator.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 61—[AMENDED]

Subpart A—General Provisions

1. The authority citation for Part 61 continues to read as follows:

Authority: Section 110(c) of the Clean Air Act, as amended (42 U.S.C. 7401–7642).

2. Section 61.04 is amended by adding paragraph (C) to read as follows:

§ 61.04 Addresses.

* * * * *

(B) * * *

(C) State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811.

* * * * *

[FR Doc. 88–498 Filed 1–12–88; 8:45 am]
BILLING CODE 6560–50–M

Proposed Rules

Federal Register
Vol. 53, No. 8
Wednesday, January 13, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3215-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On October 29, 1987, (52 FR 41589), the U.S. Environmental Protection Agency (USEPA) proposed to change the attainment status designation for part of Clark County in Ohio relative to the total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS). USEPA proposed redesignating the present secondary nonattainment area to attainment. In response to a request from the Regional Air Pollution Control Agency (RAPCA) in Dayton, Ohio the public comment period is extended to January 28, 1988.

DATE: Comments must be postmarked on or before January 28, 1988.

If possible please send an original and three copies.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

Authority: 42 U.S.C. 7401-7642.

Dated: December 29, 1987.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 88-499 Filed 1-12-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[PR Docket No. 87-265]

General Mobile Radio Service (GMRS)

AGENCY: Federal Communications Commission.

ACTION: Order extending time to file reply comments.

SUMMARY: This document extends the time for filing reply comments in this proceeding because the holiday season could act to impede the full participation of all interested parties with the former reply comment deadline.

DATE: Reply comments are now due on or before January 29, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Special Services Division, Private Radio Bureau, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

Order

Adopted: December 30, 1987.

Released: December 31, 1987.

By the Chief, Private Radio Bureau:

In the Matter of Amendment of Subparts A and E of Part 95 to Improve the General Mobile Radio Service (GMRS).

1. On July 31, 1987, the Commission released a *Notice of Proposed Rule Making* in this matter (52 FR 29396, August 7, 1987). In that document we proposed to (1) limit eligibility for General Mobile Radio Service (GMRS) system licensing to individuals; (2) eliminate the need to re-license a GMRS system before changing channels; (3) add interstitial channels; (4) provide for transient use of mobile relays (repeaters); (5) broaden station operator eligibility and (6) create the concept of a small base station to enhance GMRS utility for the mobile-unit-oriented personal user.

2. Comments on this proposal were due on or before November 30, 1987. Reply comments on this proposal are due on or before December 31, 1987. The Personal Communications Section of the Electronic Industries Association's Information and Telecommunications Group (PCS-EIA) and the Personal Radio Steering Group, Inc. (PRSG), have both requested that the time for filing reply comments in this proceeding be extended. PRSG requested that we extend the reply comment period through January 15, 1987. PCS-EIA requested until January 29, 1987, to file reply comments.

3. In support of their request, PRSG stated that preliminary review of the comments being filed in this docket indicate a substantial interest by the public, including many current GMRS licensees. PRSG further stated that because the reply comment deadline fell during the Christmas/New Year holiday season, it expected that mail delivery service would be slowed because of seasonal volume and that there would be delays in obtaining timely access to copies of public comments.

4. In support of their request, PCS-EIA stated that the comments in this proceeding are both voluminous in number and size, with particular reference to the 200-plus page filing of PRSG. Because of shortened working weeks in the latter part of December, PCS-EIA requested a one-month extension in order to be able to adequately review the docket file and prepare reply comments.

5. It is in the public interest, convenience and necessity to obtain the fullest participation of all interested members of the public in this proceeding. Considerations related to the holiday season could act to impede the full participation of all interested parties with the current reply comment deadline.

6. In view of the foregoing, the Chief, Private Radio Bureau, acting under the authority delegated by § 0.331 of the Commission's rules, ORDERS that the reply comment period is extended in this proceeding. Reply comments may be filed on or before January 29, 1988.

List of Subjects in 47 CFR Part 95

General mobile radio.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 88-510 Filed 1-12-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking on Occupant Protection in Interior Impact and Steering Control Rearward Displacement

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: The agency denies a petition for rulemaking from Mitsubishi Motors Corporation requesting that NHTSA amend Safety Standard No. 201, *Occupant Protection in Interior Impact*, and Standard No. 204, *Steering Control Rearward Displacement*, to provide an exception from the requirements of those standards for vehicles that conform to the frontal barrier requirements of Safety Standard No. 208, *Occupant Crash Protection*, "by means of other than seat belt assemblies." The agency is denying the petition because the petitioner has not shown that compliance with either Standard No. 201 or 204 unjustifiably interferes with the development of air bag technology or other types of occupant restraint systems, or that there is sufficient reason for removing the protection offered by the two standards.

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Vehicle Safety Standards, NRM-12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366-4916.

SUPPLEMENTARY INFORMATION: On July 20, 1987, Mitsubishi Motors Corporation submitted a petition for rulemaking requesting that NHTSA amend Safety No. 201, *Occupant Protection in Interior Impact*, and Standard No. 204, *Steering Control Rearward Displacement*, to provide an exception from the requirements of those standards for vehicles that conform to the frontal barrier requirements of Safety Standard No. 208 "by means of other than seat belt assemblies." (Although Mitsubishi broadly describes the types of vehicles for which it petitions for an exception, the petition itself refers virtually only to air bag equipped vehicles. NHTSA thus considers Mitsubishi's petition to address only the one type of vehicle.)

The petitioner pointed out that Safety Standard No. 203, *Impact Protection for the Driver from the Steering Control System*, currently excepts from its application vehicles that conform to the frontal barrier crash requirements (S5.1) of Standard No. 208 by means other than seat belt assemblies. Mitsubishi said that the Standard No. 203 exception was made because "the air bag system had been recognized * * * as a useful means to provide better protection than a seat belt system against chest, neck and facial injuries to the driver in frontal crash[es]." Mitsubishi said that an air bag for the passenger seating position would have the "same effect" as that for the driver. The petitioner argued that Standard No. 201 should therefore be amended to provide the same type of exception currently found in Standard No. 203 for air bag equipped vehicles for the same reasons NHTSA excepted such vehicles in the latter standard.

Mitsubishi suggested also that NHTSA amend Standard No. 204 to except air bag equipped vehicles from the requirements of the standard for the same reasons petitioner requested the Standard No. 201 exception. Mitsubishi said that Standard No. 204 is directed at reducing the likelihood of chest, neck and head injuries, which the petitioner said unnecessarily duplicates the protection provided by air bags.

Standard No. 201

Standard No. 201 specifies requirements for padded instrument panels, seat backs, sun visors and armrests, to afford impact protection for occupants. Appropriate energy absorbing materials in the lower, mid and top surfaces of the instrument panel can lessen knee, chest and head injuries resulting from contacts therefrom. In addition, the standard requires interior compartments to remain closed during a crash.

The petitioner is correct that Standard No. 203 was amended pursuant to a petition for rulemaking from General Motors Corporation (GM) in May 1975 to exclude from the standard's requirements vehicles that conform to the frontal barrier crash requirements of Standard No. 208 by means other than seat belt assemblies. (40 FR 17992; April 24, 1975.)

However, Mitsubishi is not correct in its implication that NHTSA made the exclusion because the air bag system had advantages over safety belt systems in protecting the upper torso and head areas which made compliance with Standard No. 203 unnecessary. Standard No. 203 was amended because the agency gave heavy weight to the petitioner's assertions that its modification to the steering control system to incorporate the air cushion system made conformity of the steering column with Standard No. 203 difficult, and sometimes impossible. The agency determined that, while as a general matter requiring the "redundant" occupant crash protection offered by standards is justified for those situations where the primary occupant crash protection system fails or multiple collisions occur, the redundant protection offered by Standard No. 203 is not justified where it directly interferes with development of the more advanced and effective air bag technology.

Mitsubishi has provided no reason showing why an exception from Standard No. 201 is appropriate. Petitioner has not shown that compliance with Standard No. 201 interferes, in any way, with the development of occupant restraint systems such as an air bag system.

Further, the agency does not agree with the petitioner that the protection provided by interior compartment surfaces complying with Standard No. 201 is unnecessary on vehicles capable of meeting the frontal crash requirements of Standard No. 208 by a crash deployed restraint system. Typically, current air bag systems deploy during a collision at an approximate barrier equivalent speed of 12 miles per hour (mph). NHTSA has concluded that Standard No. 201 provides necessary protection to vehicle occupants against laceration or abrasion type injuries that could be inflicted by the interior surfaces of the vehicle compartment during crashes below the threshold speed for air bag deployment. The agency believes removing that protection for certain types of crashes would not be in the interest of safety.

Since the agency finds no reason for proposing the requested exception from Standard No. 201 that would outweigh the reasons given above to continue the standard's application to air bag equipped vehicles, Mitsubishi's request to amend Standard No. 201 is denied.

Standard No. 204

The purpose of Standard No. 204 is to reduce driver injuries and fatalities by limiting the rearward motion of the steering column in a frontal crash. The standard prohibits more than five inches of rearward displacement by the vehicle's steering assembly in a 30 mph frontal barrier crash.

The petitioner said that NHTSA should amend Standard No. 204 to except air bag equipped vehicles from its requirements for the same reasons petitioner said Standard No. 201 should be amended. NHTSA believes that the argument implicit in Mitsubishi's statements is that the exception is

necessary because the steering column displacement limits of the standard are redundant given the injury criteria in Standard No. 208. These criteria limit the forces imposed on the head, chest and legs of a test dummy during a 30 mph frontal barrier crash test. Petitioner implicitly argues that because Standard No. 208 indirectly limits the rearward displacement of the steering column and vehicle structure, applying Standard No. 204 to vehicles meeting the frontal barrier crash test of Standard No. 208 is unnecessary.

The agency does not agree that the protection provided by Standard No. 204 is unnecessary for vehicles equipped with air bags. The standard essentially requires hardware to disconnect steering gear movement from the steering column under crash conditions. The standard provides protection to the driver of an air bag equipped vehicle against chest, neck or head injuries which could occur in frontal collisions at speeds below the deployment level of the vehicle's air bag, or in angular impacts where an air bag might not be as likely to deploy. NHTSA further believes that, in the absence of Standard No. 204, it is possible for a steering assembly to displace more than five inches in a situation where the injury criteria of Standard No. 208 were met. Thus, although the driver's impact with the assembly fell within the injury criteria of the latter standard, the rearward motion of the assembly might entrap the driver or make escape from the vehicle more difficult.

Because NHTSA sees no basis for proposing the requested amendment to Standard No. 204, the agency denies that request.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 40 CFR 1.50 and 501.8)

Issued on January 6, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88–571 Filed 1–12–88; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 53, No. 8
Wednesday, January 13, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children; Program Reimbursement Rates for 1988

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children. These adjustments reflect changes in the Consumer Price Index and are required by the statute governing the Program.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and has been classified as *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials, (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Definitions

The terms used in this Notice shall have the meaning ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

(Catalog of Federal Domestic Assistance, Program No. 10.559)

Background

Pursuant to section 123 of the National School Lunch Act (42 U.S.C. 1761) and the regulations governing the Summer Food Service Program for Children (7 CFR Part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the Summer Food Service Program for Children during the 1988 Program. Adjustments are based on changes in the food away from home series of the Consumer Price Index for All Urban Consumers for the period November 1986 through November 1987. The new reimbursement rates in cents are as follows:

Maximum Per Meal Reimbursement Rates

Operating Costs	
Breakfast	95.50
Lunch or Supper	171.25
Supplement	45.00
Administrative Costs	
a. For meals served at rural or self-preparation sites:	
Breakfast	8.75
Lunch or Supper	16.25
Supplement	4.50
b. For meals served at other types of sites:	
Breakfast	7.00
Lunch or Supper	13.50
Supplement	3.50

The total amount of payments to State agencies for disbursement to Program sponsors will be based upon these Program reimbursement rates and the number of meals for each type served. The above reimbursement rates, before being rounded-off to the nearest quarter-cent, represented a 3.8 per cent increase during 1987 (from 365.8 in November 1986 to 379.6 in November 1987) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Authority: Sec. 326 of Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341, (42 U.S.C. 1760), secs. 803, 807, 809, 816 and 817, Pub. L. 97–35, Secs. 203 and 206, Pub. L. 96–499, Secs. 5, 7, 10, Pub. L. 95–627, 95 Stat. 3603 (42 U.S.C. 1771); Sec. 2, Pub. L. 95–166, 91 Stat. 1325 (42 U.S.C. 1761); Sec. 7, Pub. L. 91–248, 84 Stat. 211 (42 U.S.C. 1859a), unless otherwise noted.

Anna Kondratas,

Administrator, Food and Nutrition Service.

Date: January 8, 1988.

[FR Doc. 88–533 Filed 1–12–88; 8:45 am]
BILLING CODE 3410–30–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal or collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: June 1988 Fertility, Birth Expectations, Immigration and Emigration Supplement
Form Number: Agency—CPS—1; CPS–260, CPS–686; OMB—NA
Type of Request: New collection
Burden: 57,000 respondents; 2,824 reporting hours
Needs and Uses: This survey will provide information on the fertility and birth expectations of women, both native and foreign born, by various demographic characteristics. The immigration items will provide information for evaluating immigration and naturalization policies. The emigration data will provide estimates for evaluating both current population estimates and 1990 census coverage.
Affected Public: Individuals or households
Frequency: One time

Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: January 7, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–527 Filed 1–12–88; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket No. 49–87]

Foreign-Trade Zone 9, Honolulu, HI; Application for Subzone Chevron Oil Refinery

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Hawaii State Department of Business and Economic Development, grantee of FTZ 9, requesting special-purpose subzone status for the oil refinery of Chevron U.S.A., Inc., located in Ewa, Oahu, Hawaii, adjacent to the Honolulu Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 30, 1987.

The 50,000 BPD refinery (248 acres) is located on Malakole Road, within the James Campbell Industrial Park, Ewa, Oahu. The facility employs 180 persons and is used to produce gasoline, fuel oil, jet fuel, diesel, petroleum gases and asphalt. Some 66 percent of the refinery inputs are sourced abroad, including crude oil and feedstock. Some products, such as jet fuel, are exported.

Zone procedures would exempt the refinery from Customs payments on the foreign products used in its exports. On its domestic sales, the company is seeking to avoid duties on fuel used in the refinery and to defer duties until products leave the refinery. On some products, such as asphalt and certain gases, the company would be able to elect the duty rate available to importers of these products. (The current rate is zero. The duty on crude oil ranges from 5¼ to 10½ cents/barrel.) The applicant indicates that zone procedures will help the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; George Roberts, District Director, U.S. Customs Service, Pacific Region, P.O. Box 1641, Honolulu, HI 96806; and Colonel F.W. Wanner, District Engineer, U.S. Army Engineer District Honolulu, Building 230, Ft. Shaffer, HI 96858.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 21, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, P.O. Box 50026, 4106 Federal Bldg., 300 Ala Moana Blvd., Honolulu, HI 96813

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th & Constitution Avenue NW., Washington, DC 20230.

Dated: December 30, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–528 Filed 1–12–88; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 48–87]

Foreign-Trade Zone 87, Lakes Charles, LA; Application for Subzone Citgo Oil Refinery

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Lake Charles Harbor and Terminal District, grantee of FTZ 87, requesting special-purpose subzone status for the oil refinery of Citgo Petroleum Corporation (subsidiary of Southland Corporation), located in Calcasieu Parish, Louisiana, adjacent to the Lake Charles Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 30, 1987.

The 260,000 BPD refinery complex (3,497 acres) is located on the west bank of the Calcasieu River, three miles southwest of Lake Charles, on State Highway 108, Calcasieu Parish, Louisiana. The facility employs 1600 persons and is used to produce gasoline, kerosene, fuel oil, coke, lubricants, propane, propylene, waxes, and sulphur. Some 80 percent of the refinery's inputs are sourced abroad, including crude oil, naptha, and cat feed. Products such as coke and propylene are exported.

Zone procedures would exempt the refinery from Customs payments on the foreign products used in its exports. On its domestic sales, the company is seeking to avoid duties on fuel used in the refinery and to defer duties until products leave the refinery. On certain products such as coke, propane, propylene, and waxes, the company would be able to elect the rate available to importers of these products. (Currently the rate is zero. The duty on crude oil ranges from 5¼ to 10½ cents/barrel.) Foreign merchandise moved into zones are also exempt from state and local *ad valorem* taxes. The applicant indicates that zone procedures will help the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal St., New Orleans, LA 70130; and Colonel Lloyd K. Brown, District Engineer, U.S. Army Engineer District New Orleans, P.O. Box 60267, New Orleans, LA 70160.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 21, 1988.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 150 Marine St., P.O. Box 1466, Lake Charles, LA 70602

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, DC 20230.

Dated: December 30, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–529 Filed 1–12–88; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 47-87]

Foreign-Trade Zone 122, Nueces County, TX; Application for Subzone Valero Oil Refinery

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority, grantee of FTZ 122, requesting special-purpose subzone status for the oil refinery of Valero Refining Company (subsidiary of Valero Energy Corporation) located in Nueces County, Texas, adjacent to the Corpus Christi Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 30, 1987.

The 80,000 BPD refinery (381 acres) is located at 5900 Up River Road, Nueces County. The facility employes 345 persons and is used to produce gasoline, naptha, other middle distillates, fuel oil, light oils, cat gasoline, butane, propane, asphalt and sulphur. Some 90 percent of the refinery inputs are sourced abroad, including crude oil, intermediate feedstocks and components.

Zone procedures would exempt the refinery from Customs payments on the foreign products used in its exports. On its domestic sales, the company is seeking to avoid duties on fuel used in the refinery and to defer duties until products leave the refinery. On certain products, such as asphalt, sulphur, propane, and butane, the company would be able to elect the rate available to importers of these products. (Currently the rate is zero. The duty on crude oil ranges from 5¼ to 10½ cents/barrel.) Foreign merchandise moved into zones are also exempt from state and local *ad valorem* taxes. The applicant indicates that zone procedures will help the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 21, 1988.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Government Plaza, 400 Mann Street, Suite 305, Corpus Christi, Texas 78401

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: December 30, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88-530 Filed 1-12-88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-583-507]

Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Malleable Cast Iron Pipe Fittings, Other than Grooved, From Taiwan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: Because of clerical errors, we are amending our final determination and antidumping duty order in this investigation for one of the four companies investigated, and we are directing the U.S. Customs Service to adjust the cash deposit or bonding rate for that company, San Yang, to 27.90%. The rates for the four other companies remain the same as announced in our antidumping duty order. Because of our amendment of the rate for San Yang, we are also amending the "all-other" rate to 28.27%.

EFFECTIVE DATE: January 13, 1988.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, (202) 377-1769, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On March 31, 1986 (51 FR 1091), we published a final determination and on May 23, 1986, we published an antidumping duty order (51 FR 18918) of sales at less than fair value on malleable cast iron pipe fittings, other than grooved, from Taiwan.

Subsequent to the publication of the final determination, we discovered certain clerical errors in our calculations for one of the four companies we investigated, San Yang. Both petitioner and the respondent were given an opportunity to comment. We have corrected these errors and are consequently amending our final determination and order by changing the weighted-average margin for San Yang. This correction results in changes in our analysis which are summarized below.

Foreign Market Value

Commerce has recalculated the weighted-average margin based on the following two changes:

1. We subtracted San Yang's home market packing costs in our calculation of San Yang's foreign market value; and

2. We recalculated San Yang's U.S. credit expenses by (a) using a per-pound credit expense for each fitting which was obtained by dividing San Yang's total U.S. credit expenses by the total weight of San Yang's fittings exported to the United States and (b) correcting our inadvertent conversion of such U.S. credit expenses into Taiwanese dollars.

Accordingly, the cash deposit or bonding rates listed in the "Suspension of Liquidation" section of the final determination and cash deposit rate listed in the antidumping duty order is amended to read as stated in the **"SUMMARY"** section of this notice.

December 31, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-531 Filed 1-12-88; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87-58-NG]

Great Lakes Gas Transmission Co. and Michigan Gas Co.; Joint Application To Reassign an Import Authorization Without Increasing the Volumes of Natural Gas Imported From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of joint application to reassign an import authorization without increasing the volumes of natural gas imported from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt

on October 19, 1987, of a joint application from Great Lakes Gas Transmission Company (Great Lakes) and Michigan Gas Company (Michigan Gas) requesting that the volumes of natural gas that Great Lakes is authorized to import from Canada be reduced by the amount it resells to Michigan Gas, and the Michigan Gas be authorized to import the gas directly. TransCanada PipeLines Limited (TransCanada) would remain the supplier of the gas and Great Lakes would transport it for Michigan Gas. The authorized import for resale to Michigan Gas is for a total of up to 7,300 Mcf per day, subject to a maximum annual limitation of 1,387,000 Mcf (FPC order issued January 4, 1974, Docket No. CP66–110), and Michigan Gas requests authorization to import identical volumes. The only significant change is the proposed transfer of the import authority for Great Lakes to Michigan Gas.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than February 12, 1988.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9622.

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: During approximately the last two years, Great Lakes has encouraged Michigan Power Company, prior owner of gas facilities which it sold to Michigan Gas effective August 31, 1987, and its other resale customers to negotiate pricing arrangements directly with TransCanada. This has resulted in significantly lower prices and arrangements that include indices which adjust prices in accordance with market conditions. As a result of this experience, the applicants believe it is in their mutual interest for Michigan Gas to purchase directly from TransCanada the volumes of gas now being purchased by Great Lakes and resold to Michigan Gas, and for Great Lakes only to transport these volumes for Michigan Gas. This would allow Michigan Gas more flexibility in future price negotiations and will provide better communication of market signals between Michigan Gas and TransCanada. The authorizations issued to Great Lakes would be modified to eliminate the volumes that Great Lakes is authorized to import from TransCanada for resale to Michigan Gas, and Michigan Gas would be authorized to import the identical volumes directly from TransCanada.

The application included a September 2, 1987, precedent agreement between Great Lakes, Michigan Gas and TransCanada, a proposed gas purchase contract between Michigan Gas and TransCanada, and a proposed transportation service agreement between Great Lakes and Michigan Gas. Effective as of the first day of the month following the receipt of all regulatory and governmental approvals acceptable to the parties, Michigan Gas will import the volumes of gas directly from TransCanada; Great Lakes and Michigan Gas will terminate their service agreement; and Great Lakes will transport the Michigan Gas volumes from the Emerson, Manitoba, interconnection to the Michigan Gas delivery points in accordance with a FERC approved gas tariff. The proposed gas purchase contract has identical pricing provisions to those currently in effect and the contract term remains the same, ending November 1, 1991. For the initial delivery month the price would be the same as under the TransCanada/Great Lakes contract for purchases by Great Lakes for resale to Michigan Gas. After the initial delivery month the price would be adjusted if the comodity charge exceeded the commodity charge for the previous month by five percent or more.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicants assert that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.s.t., February 12, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of this joint application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 4, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–515 Filed 1–12–88; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Order to Carbonit Houston, Inc., and Richard W. Johnson

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Carbonit Houston, Inc., and Richard W. Johnson.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the United States Department of Energy hereby gives notice of a Proposed Remedial Order which was issued on November 13, 1987, to Carbonit Houston, Inc., c/o Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, and Richard W. Johnson, 14 Wild Ginger, The Woodlands, Texas 77380. This Proposed Remedial Order alleges overcharges in the amount of $8,344,644.03, plus interest, resulting from violations of 10 CFR 212.186, 10 CFR 205.202 and 10 CFR 210.62(c) during the period January 1978 through December 1978. The effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F–078, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

and upon

Chandler L. van Orman, Acting Administrator, Economic Regulatory Administration, U.S. Department of Energy, Room 3H–017, RG–40, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on January 4, 1988.

Chandler L. van Orman,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 88–516 Filed 1–12–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Adirondack Hydro Development Corp.; Surrender of Preliminary Permit

[Project No. 9622–001]

January 7, 1988.

Take notice that the Adirondack Hydro Development Corporation, permittee for the Ploof Falls Project No. 9622 located on the St. Regis River in Franklin County, New York has requested that its preliminary permit be terminated. The preliminary permit was issued on May 30, 1986, and would have expired on April 30, 1989. The permittee states that analysis of the Ploof Falls Project did not indicate feasibility for development.

The permittee filed the request on December 9, 1987, and the preliminary permit for Project No. 9622 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–541 Filed 1–12–88; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8922–002]

Independence Electric Corp.; Surrender of Preliminary Permit

January 7, 1988.

Take notice that the Independence Electric Corporation, Permittee for the Celina Hydro Project No. 8922, has requested that its permit be terminated. The permit was issued on June 10, 1985, and would have expired May 31, 1988. The project would have been located on the Cumberland River in Cumberland, Monroe, Clinton, and Russell Counties, Kentucky. The Permittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The Permittee filed the request on December 17, 1987, and the preliminary permit for Project No. 8922 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–542 Filed 1–12–88; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 9696–003]

Lima Hydro Limited Partnership; Surrender of Preliminary Permit

December 9, 1987.

Take notice that Lima Hydro Limited Partnership, permittee for the Lima Hydro Project, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 9696 was issued May 14, 1986, and would have expired on April 30, 1989. The project would have been located on the Red Rock River at Lima Dam near Lima, Beaverhead County, Montana.

The permittee filed the request on November 12, 1987, and the preliminary permit for Project No. 9696 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided

for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-543 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9504-001]

St. Vrain Environmentalists; Surrender of Preliminary Permit

January 7, 1988.

Take notice that the St. Vrain Environmentalists, permittee for the proposed North St. Vrain Creek Project No. 9504, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 24, 1986, and would have expired on December 31, 1988. The project would have been located on the North St. Vrain Creek in Boulder County, Colorado.

The permittee filed the request on November 3, 1987, and the preliminary permit for Project No. 9504 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-544 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-61-000]

Bayou Interstate Pipeline System; Filing

January 7, 1988.

Take notice that on December 30, 1987, Bayou Interstate Pipeline System, (Bayou) tendered for filing the following tariff sheets of its FERC Gas Tariff, Original Volume No. 1, to be effective February 1, 1988.

Second Substitute Third Revised Sheet No. 4
Substitute Fourth Revised Sheet No. 4
Sixth Revised Sheet No. 5
Second Revised Sheet No. 8
Substitute First Revised Sheet No. 50
Second Revised Sheet No. 78

Bayou states that the tariff sheets were filed pursuant to the Purchased Gas Cost Adjustments provision contained in Section 15 of Bayou's tariff and to eliminate the Incremental Pricing Adjustments provision of its tariff in accordance with Order No. 478 issued July 27, 1987. Further, Bayou states that it is submitting Substitute Fourth Revised Sheet No. 4 to restate the Base Gas Cost Rate under revised rates filed in Docket No. RP88-1-000 and suspended by the Commission until April 1, 1988. Copies of the filing were served upon Bayou's jurisdictional customer and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such protests or motions should be filed on or before January 14, 1988. Protests will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-545 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-43-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Tariff

January 6, 1988.

Take notice that on December 30, 1987, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following tariff sheets, to be effective February 1, 1988:

One hundred and twenty-second Revised Sheet No. 16
Tenth Revised Sheet No. 16B
Original Sheet No. 16B1
Original Sheet No. 16B2
First Revised Sheet No. 46E
Original Sheet No. 68
Original Sheet No. 68A
Original Sheet No. 68B

Columbia states that the revised tariff sheets reflect a proposed adjustment to its current no-gas commodity sales rates effective February 1, 1988 to recognize the elimination of certain costs incurred by Columbia to reform its high-cost contracts with certain Southwest producers, which results in a decrease in Columbia's non-gas commodity sales rate of 15.74 cents per Dth. Columbia states that the proposed adjustment is expressly conditioned on, and shall be effective upon, acceptance of Columbia's proposal in the instant filing to amortize certain contract reformation costs over four years by means of a fixed charge, for a total fixed charge recovery over four years of approximately $348.5 million, plus interest calculated in accord with 18 CFR 154.38(d)(4)(iv)(c) (1987) of the Commission's Regulations. According to Columbia, this amount represents one-half of Columbia's contract reformation costs subject to the instant filing attributable to the period commending April 1, 1987. Columbia proposes to allocate such costs among its customers on the basis of contract demand levels of Rate Schedule CDS and G customers and maximum daily obligation levels of Rate Schedule SGS customers.

Columbia states that the instant filing is contingent upon Commission action on its April 10, 1987 filing in Docket No. RP87-55-000 with regard to certain matters subject to briefing therein. Upon the effectiveness of the rates proposed in the instant filing, Columbia would refund, with interest calculated pursuant to 18 CFR 154.38(d)(4)(iv)(c) (1987) of the Commission's Regulations, the contract reformation costs collected in Docket No. RP87-55-000 by means of a direct payment to all parties which paid such charges commencing May 11, 1987.

Columbia states that as support for the cost of service, exclusive of the contract reformation costs, Columbia incorporates by reference its September 30, 1986 section 4(e) filing in Docket No. RP86-168, *et al.*, as revised by motions on February 27, 1987, and July 31, 1987, as well as Columbia Gulf Transmission Company's initial and revised filings in Docket No. RP86-167-000.

Columbia states that pursuant to § 388.110 of the Commission's Regulations, it has requested that the Commission treat certain contract reformation information and data as commercially sensitive and confidential data, the disclosure of which would be harmful to Columbia. It states that, due to the highly confidential and proprietary nature of the information contained in "Confidential Binder A," Columbia submits that access to the contents thereof be limited to parties other than producers, royalty owners and interstate pipelines to this proceeding. Columbia will maintain copies of the Confidential Binder A at its Charleston, West Virginia and Washington, DC offices for parties other than producers, royalty owners and interstate pipelines to review, which will be subject to appropriate protective

conditions. Columbia submits that a protective order of the nature of the one issued by the Presiding Judge in Columbia's ongoing section 4 rate case in Docket No. RP86-168, *et al.*, would be appropriate.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such protests or motions should be filed on or before January 13, 1988. Protests will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-546 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL88-5-000]

Commonwealth Electric Co. v. Boston Edison Co.; Filing

January 6, 1988.

Take notice that on December 29, 1987, Commonwealth Electric Company tendered for filing pursuant to sections 205, 206, 306 and 307 of the Federal Power Act and Rule 206 of the Commission's Rules of Practice and Procedure a Petition for Investigation and Complaint against Boston Edison Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before February 5, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-547 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI88-190-000, CI88-191-000]

Enron Oil & Gas Co. and Enron Producing Co.; Applications

January 7, 1988.

Take notice that on December 22, 1987, Enron Oil & Gas Company (EOG) and Enron Producing Company (EPC), of P.O. Box 1188, Houston, Texas 77251, filed applications pursuant to section 7(c) of the Natural Gas Act and §§ 154.92(d), 154.94, 157.23 and 157.24 of the Federal Energy Regulatory Commission's Regulations, to make sales of natural gas in interstate commerce to Northern Natural Gas Company, Division of Enron Corp. (Northern) as total successors-in-interest to acreage in various offshore and onshore properties, which were previously treated as first sales of pipeline production gas by Northern's Exploration and Production Division (E&P). EOG and EPC request authorization to continue to make sales of natural gas in interstate commerce for resale to Northern pursuant to new Gas Purchase Contracts dated December 16, 1987. These applications are on file with the Commission and open to public inspection.

By assignments effective August 1, 1987, EOG has acquired all of Northern's interests in certain offshore producing properties and facilities and EPC has acquired all of Northern's interests in certain onshore producing properties and facilities.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 26, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-548 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1651-000]

Thomas J. Galligan, Jr.; Filing

January 5, 1988.

Take notice that on December 23, 1987, Thomas J. Galligan, Jr. filed an application pursuant to section 305(b) of the Federal Power Act for Commission authorization to hold concurrently the following positions:

Position	Name of corporation	Classification
Director	Boston Edison Company.	Public Utility.
Director	New England Mutual Life Insurance Company.	Mutual Life Insurance Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-549 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-22-000]

Gasdel Pipeline System, Inc.; Technical Conference

January 7, 1988.

A technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Tuesday, January 19, 1988 at 10:00 a.m. in Room 4200 at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-550 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc.; Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2775 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2775 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 360 kW.

The principal project works currently licensed for Project No. 2775 are: (1) A penstock; (2) water wheel; (3) 360 kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87-7-000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87-7-000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-551 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

Linweave Inc.; Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2772 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2772 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 460 kW.

The principal project works currently licensed for Project No. 2772 are: (1) A penstock; (2) water wheel; (3) 460 kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87-7-000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87-7-000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street NE, Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell

Acting Secretary

[FR Doc. 88-552 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc., Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2771 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2771 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 400 kW.

The principal project works currently licensed for Project No. 2771 are: (1) A penstock; (2) water wheel; (3) 400 kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87-7-000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87-7-000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-553 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc., Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2770 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2770 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 240 kW.

The principal project works currently licensed for Project No. 2770 are: (1) A penstock; (2) water wheel; (3) 240 kW generator; (4) tailrace; and (5)

appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87–7–000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87–7–000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–554 Filed 1–12–88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc., Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2768 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2768 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 250 kW.

The principal project works currently licensed for Project No. 2768 are: (1) A penstock; (2) water wheel; (3) 250 kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87–7–000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87–7–000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–555 Filed 1–12–88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc.; Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2766 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2766 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 400 kW.

The principal project works currently licensed for Project No. 2766 are: (1) A penstock; (2) water wheel; (3) 400 kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87–7–000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87–7–000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–556 Filed 1–12–88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc.; Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2758 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2758 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 280 kW.

The principal project works currently licensed for Project No. 2758 are: (1) A penstock; (2) water wheel; (3) 280 kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for licensee for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87–7–000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87–7–000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction

at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-557 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

Linweave, Inc.; Existing Licensee's Intent To File an Application for New License

January 7, 1988.

Take notice that on July 2, 1987, Linweave, Inc., licensee for the Linweave, Inc. Project No. 2497 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Linweave, Inc. Project No. 2497 will expire on February 28, 1991. The project is located on the Holyoke Canal System in Hampden County, Massachusetts, and has a total capacity of 400 kW.

The principal project works currently licensed for Project No. 2497 are: (1) A penstock; (2) water wheel; (3) 400-kW generator; (4) tailrace; and (5) appurtenant electrical and mechanical facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87-7-000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87-7-000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitpl Street NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-558 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-69-009]

Mid Louisiana Gas Co.; Substitute Compliance Filing

January 7, 1988.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on December 24, 1987, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets:

To become effective September 1, 1987:

Substitute Sixtieth Revised Sheet No. 3a
Substitute Third Revised Sheet No. 3a.1

To become effective November 1, 1987:

Substitute Sixty-First Revised Sheet No. 3a
Substitute Fourth Revised Sheet No. 3a1

Mid Louisiana states that the purpose of the filing of the revised Tariff Sheets is to correct an error in the computation of the South Georgia Adjustment contained in the December 15, 1987, Compliance Filing.

Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before January 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-559 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-42-000]

Pacific Offshore Pipeline Co.; Change in Rate

January 7, 1988.

Take notice that on December 24, 1987, Pacific Offshore Pipeline Company ("POPCO") tendered for filing a Notice of a Change in Rates for natural gas service rendered to its sole jurisdictional customer, Southern California Gas Company, pursuant to Rate Schedule G-1, FERC Gas Tariff Original Volume No. 1. To implement this notice of change, POPCO tendered for filing and acceptance Third Revised Tariff Sheet No. 5 superseding Second Revised Tariff Sheet No. 5.

POPCO states that based upon the test period cost of service, POPCO projects a decrease in annual revenue requirement and therefore files a rate decrease of approximately $1.2 million per annum. POPCO states that the reduction is due to a decline in rate base and a requested decrease in rate of return on equity. POPCO further notes that the decrease calculation includes costs associated with the settlement of all outstanding take-or-pay claims with its sole producer-supplier, Exxon Corporation, and contract reformation and gas cost buy-downs providing market sensitivity pricing provisions. POPCO does not propose any other change in its rates.

POPCO has requested that waiver be granted of all applicable rules and regulations of the Commission as may be necessary to implement the notice of change effective December 28, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-560 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-18-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 7, 1988.

Take notice that on December 30, 1987, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet No. 1
Eleventh Revised Sheet No. 10

Alternate Eleventh Revised Sheet No. 10
Eleventh Revised Sheet No. 10A
Alternate Eleventh Revised Sheet No. 10A
Sixth Revised Sheet No. 14
First Revised Sheet No. 107
First Revised Sheet No. 111
Second Revised Sheet No. 112
Third Revised Sheet No. 113
First Revised Sheet No. 114
Third Revised Sheet No. 115
Third Revised Sheet No. 116
Second Revised Sheet No. 117

Texas Gas states that these tariff sheets reflect an increase of purchased gas costs pursuant to the Purchased Gas Adjustment clause of Texas Gas's FERC Gas Tariff and the elimination of all incremental pricing provisions from the tariff. The sheets are proposed to be effective February 1, 1988.

Copies of the filing were served upon Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before January 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-561 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-175-014]

Transwestern Pipeline Co.; Compliance Filing

January 7, 1988.

Take notice that on December 17, 1987, Transwestern Pipeline Company (Transwestern) filed an acceptance of its Stipulation and Agreement as modified, along with revised tariff sheets as listed in the attached appendix to comply with the Commission's order issued on January 28, 1987, as modified by the Commission's order issued on November 17, 1987. Transwestern requests a January 16, 1988 effective date for its revised tariff sheets. Copies of Transwestern's filing were sent to all parties, jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

F.E.R.C. Gas Tariff, Second Revised Volume No. 1

Cover Sheet
31st Revised Sheet No. 6
Original Sheet No. 29A
2nd Revised Sheet No. 30
2nd Revised Sheet No. 30A
2nd Revised Sheet No. 30B
Original Sheet No. 30C
Original Sheet No. 30D
Original Sheet No. 30E
2nd Revised Sheet No. 31
2nd Revised Sheet No. 32
Original Sheet No. 32A
2nd Revised Sheet No. 33
2nd Revised Sheet No. 34
2nd Revised Sheet No. 34A
Original Sheet No. 34B
Original Sheet No. 34C
Original Sheet No. 34D
2nd Revised Sheet No. 35
2nd Revised Sheet No. 36
Original Sheet No. 51A
1st Revised Sheet No. 66
4th Revised Sheet No. 68
Original Sheet No. 68A
Original Sheet No. 68B
5th Revised Sheet No. 80
3rd Revised Sheet No. 81
2nd Revised Sheet No. 126
2nd Revised Sheet No. 127
2nd Revised Sheet No. 128
Original Sheet No. 129
Original Sheet No. 130
Original Sheet No. 131
3rd Revised Sheet No. 132-146
4th Revised Sheet No. 147

[FR Doc. 88-562 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-52-000]

Western Gas Interstate Co; Proposed PGA Rate Adjustment

January 7, 1988.

Take notice that on December 30, 1987, Western Gas Interstate Company ("Western") submitted for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet Nos. 215, 217
Second Revised Sheet Nos. 211, 213, 214, 216
Third Revised Sheet No. 212
Ninth Revised Sheet No. 11
Eleventh Revised Sheet No. 10

The proposed effective date for the tariff sheets is February 1, 1988.

Western states that, among other things, its filing proposes changes to its rates in accordance with the terms of the Purchased Gas Adjustment Clause of its FERC Gas Tariff which permits recovery of changes in the cost of gas and of unrecovered purchased gas costs. Western further states that the proposed changes provide for: (1) An increase in cost under Western's Rate Schedule G-N of 4.99 cents per Mcf.; and (2) a decrease in cost under Western's Rate Schedule G-S of 34.57 cents per Mcf.

Western states that the filing does not include any adjustment to its surcharge due to Western's sale of exchange gas, which sale was addressed in *Western Gas Interstate Company*, Docket Nos. TA87-2-52-000.

Western states that its filing includes certain revisions to its tariff pursuant to Order No. 478. More specifically, Western's filing eliminates provisions to its tariff pertaining to the implementation of the Commission's incremental pricing rules.

Finally, Western states that copies of the filing were served upon Western's transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before January 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-563 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-33-005]

Williams Natural Gas Co.; Filing

January 6, 1988.

Take notice that on December 23, 1987, Williams Natural Gas Company (WNG) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, to be effective January 1, 1988:

Original Volume No. 2

First Revised Sheets Nos. 1, 3, 15 and 27
Second Revised Sheet Nos. 144 and 309

The instant revised tariff sheets were inadvertently omitted from its December 18, 1987 filing. WNG requests that the instant tariff sheets be incorporated into its December 18, 1987 filing. Copies of the omitted tariff sheets have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such protests or motions should be filed on or before January 13, 1988. Protests will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-564 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-173-000]

Wisconsin Electric Power Co.; Filing

January 6, 1988.

Take notice that on December 30, 1987, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an executed assignment agreement between Wisconsin Electric and Cliffs Electric Service Company (CESCO). Under the assignment agreement, CESCO will transfer its rights and obligations under an Interconnection Agreement between itself and the City of Marquette Board of Power and Light (Marquette) to Wisconsin Electric. Under the Interconnection Agreement the parties agree to provide each other various power and energy services as economic circumstances dictate.

Wisconsin Electric requests an effective date of the later of Wisconsin Electric's closing on the Presque Isle Power Plant or January 1, 1988.

Copies of the filing have been served on Marquette, CESCO, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-565 Filed 1-12-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180751; FRL-3214-8]

Receipt of Applications for Specific Exemptions To Use Methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amin]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the North Carolina Department of Agriculture (hereafter referred to by State or as "Applicant") for use of the unregistered product Harmony, to control wild garlic in wheat and barley in North Carolina. Harmony, manufactured by E.I. duPont de Nemours and Company, contains the unregistered active ingredient methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amin]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate. EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before January 19, 1988.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180751," should be submitted:

By mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Robert A. Forrest, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of the unregistered product, Harmony, to control wild garlic in wheat and barley.

Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant has requested a maximum of one postemergence application of Harmony. Applications will be made between the two-leaf and boot stage of wheat and barley when wild garlic is 6 to 12 inches high. A maximum of 0.67 ounce of product is proposed to be applied per acre in North Carolina. A maximum of 100,000 acres of wheat and barley is proposed to be treated in North Carolina. If all of the acreage were treated, a maximum of 4,188 pounds of product would be needed in North Carolina.

Applications are proposed to be made using ground equipment only. All applications are proposed to be made by or under the direct supervision of certified applicators. North Carolina has requested authorization to make treatments through April 10, 1988.

The Applicant claims that emergency conditions exist due to the presence of wild garlic bulblets in harvested wheat and barley. Grain sold with garlic bulblets present is generally docked on a per-bulblet basis. The Applicant claims that the new regulations under the U.S. Grain Standards Act which lower by two-thirds the amounts of wild garlic allowable in marketed wheat and barley have contributed to the need for a better means of controlling garlic. If these new standards cannot be met, prices will be docked severely or the grain may be refused altogether. In either event, the economic consequences could be substantial if growers are unable to control wild garlic in wheat and barley.

The Applicant claims that the registered alternatives currently available do not provide a sufficient level of control of wild garlic. The Applicant claims that wheat and barley growers have traditionally used 2,4-D and dicamba to control this weed. Specifically, the Applicant claims that these pesticides only provide 20 to 75 percent control of wild garlic.

This notice does not constitute a decision by EPA on the application itself. It is the Agency's policy to solicit public comment on applications involving unregistered active ingredients. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before January 19, 1988, and should bear the identifying notation "OPP-180751." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the North Carolina Department of Agriculture.

Dated: December 23, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-504 Filed 1-12-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100050; FRL-3313-7]

Syracuse Research Corp.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Syracuse Research Corporation (SRC) has been awarded a contract to perform work for the EPA Office of Research and Development, and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to SRC as authorized by 40 CFR 2.307(h) and 40 CFR 2.308(h)(2), respectively. This action will enable SRC to fulfill the obligations of the contract and serves to notify affected persons.

DATE: SRC will be given access to this information no sooner than January 19, 1988.

FOR FURTHER INFORMATION CONTACT: By mail:

Catherine S. Grimes, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 212, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-4460).

SUPPLEMENTARY INFORMATION: Under Contract No. 68-03-3521, SRC will be preparing and updating health and environmental effects documents for EPA's Office of Research and Development. These documents will address health and environmental effects, including aquatic toxicity, and environmental fate and transport, of the following chemicals and their constituents: Dichlorophenoxy (2,4-) Acetic Acid, Sodium Diethyldithiocarbamate, Thallium Salts, and Ammonium Acetate. These documents serve to support listings under the Resource Conservation and Recovery Act (RCRA) and also provide health related limits and goals for emergency and remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This contract involves no subcontractors.

The Office of Research and Development and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract, and these evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with SRC prohibits use of the information for any purpose other than purpose(s) specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, SRC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Research and Development. All information supplied to SRC by EPA for use in connection with this contract will be returned to EPA when SRC has completed its work.

Dated: January 4, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88-315 Filed 1-12-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/46B; FRL-3214-9]

Cyanazine; Intent To Cancel Registrations; Denial of Applications for Registration; Conclusion of Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination and intent to cancel.

SUMMARY: On April 10, 1985, EPA issued a Notice of Initiation of Special Review of registrations of pesticide products containing cyanazine. On January 7, 1987, EPA issued a Notice of Preliminary Determination announcing its preliminary determination that continued use of registered cyanazine products would be allowed only if registrants modified certain terms and conditions of registration as described herein.

This notice concludes the Special Review of pesticide products containing cyanazine and announces EPA's final decision to cancel registrations and deny applications of all such products unless registrants make specified modifications to the terms and conditions of their registrations.

DATES: A request for a hearing by a registrant or applicant must be received by February 12, 1988, or 30 days from receipt by mail of this Notice, whichever is the later applicable deadline. A request for a hearing from any other adversely affected person must be received by February 12, 1988.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Joanna J. Dizikes, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-5096).

SUPPLEMENTARY INFORMATION: This notice is organized into eight units. Unit I is the Introduction. It provides the background information concerning this cancellation action. Units II and III summarizes the risks and the benefits associated with the use of cyanazine. Unit IV contains the comments of the Scientific Advisory Panel, the Secretary of Agriculture, and other public comments and EPA's response to those comments. Unit V describes the Agency's risk/benefit conclusions, and Unit VI describes the regulatory actions required to be complied with by this notice. Unit VII describes the procedures which will be followed in implementing the regulatory actions EPA is announcing in this notice. Unit VIII describes the public docket established for the Cyanazine Special Review.

I. Introduction

A. Notice of Special Review and Preliminary Notice of Intent To Cancel

On April 10, 1985, EPA issued a Notice of Special Review (also called Position Document 1 of "PD-1") on pesticide products containing cyanazine (50 FR 14151), following a finding that cyanazine met or exceed the risk criteria in 40 CFR 162.11(a)(3)(ii)(B), which were in effect at that time. The new, revised risk criteria which appear at 40 CFR 154.7(a)(2) are met or exceeded as well.

The Cyanazine Special Review was based on teratology studies using oral administration which showed that cyanazine produced teratogenic effects in the Fischer 344 rat [lowest-observed-effect-level (LOEL) = 25 mg/kg/day, no-observed-effect-level (NOEL) = 10 mg/kg/day] and fetotoxic effects in New Zealand white rabbit (LOEL = 2 mg/kg/day, NOEL = 1 mg/kg/day). Exposures to mixers/loaders and applicators were identified as the occupational exposures of concern.

Dermal absorption and dermal developmental toxicity studies were submitted to the Agency after the issuance of the Notice of Special Review on cyanazine. These new data led to refinement of the risk estimates presented in the Notice of Special Review. The dermal developmental toxicity study demonstrated a NOEL of 573 mg/kg/day.

Following review of public comments and available data, the Agency issued a Notice of Preliminary Determination on January 7, 1987, as well as the Cyanazine Technical Support Document. That document discussed in detail the Agency's determination regardng the risks arising from the use of cyanazine and the modifications to registration which, if adopted, would reduce risks to acceptable levels. Such modifications involved risk reduction measures and included requirements for the use of protective gloves, closed loading systems, and chemical-resistant aprons, as well as label statements regarding the cleaning of protective gloves, separate laundering of protective clothing, and the reason cyanazine has been classified for Restricted Use.

This notice announces the Agency's intent to cancel registrations and deny applications for registration for all pesticide products that contain cyanazine as an active ingredient, unless the terms and conditions of registration are amended as described in Unit VI. This action is based on the Agency's determination that the use of cyanazine will result in unreasonable adverse effects to mixers, loaders, and applicators of cyanazine unless the required measures are adopted. A detailed discussion of the basis of this action is contained in the Notice or Preliminary Determination and the Cyanazine Technical Support Document issued on January 7, 1987 (52 FR 589). This Notice constitutes the final Agency action on the Special Review of cyanazine pesticide products initiated by the results of the developmental toxicity studies discussed herein.

B. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration, section 3(c)(5) of FIFRA. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment." The term "unreasonable adverse effects on the environment" is defined under FIFRA section 2(bb) as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." This standard requires a finding that the benefits of the use of the pesticide exceed the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or in accordance with widespread and commonly recognized practice.

The burden of proving that a pesticide satisfies the standard for registration rests on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions of registration whenever it is determined that the pesticide appears to cause unreasonable adverse effects on the environment.

In determining whether the use of a pesticide poses risks which are greater

than the benefits of its use, EPA considers both possible changes to the terms and conditions of registration which can reduce risks, as well as the impacts of such modifications on the benefits of use. If EPA determines that such changes reduce risks to the level where the benefits outweigh the risks, it may require such changes be made in the terms and conditions of registration.

Alternatively, EPA may determine that no change in the terms and conditions of a registration will adequately ensure that use of the pesticide will not pose unreasonable adverse effects. In that event, the Administrator may issue a Notice of Intent to Cancel the registration or may hold a hearing to determine whether it should be cancelled under FIFRA section 6(b). In determining whether to issue such a notice, the Administrator must take into account the impact of the action on production and prices of agricultural commodities, retail food prices, and other possible effects on the agricultural economy. At least 60 days before formally issuing such a notice, he must inform the Secretary of Agriculture in writing of the substance of the proposed actions and supply the Secretary with an analysis of the expected impact on the agricultural economy. At the same time, under FIFRA section 25(d), the Administrator is required to submit the proposal to the Scientific Advisory Panel for comment as to the impact on health and the environment of the action proposed in the cancellation notice. EPA is also required by law, where appropriate, to consult with the U.S. Department of the Interior's Office of Endangered Species to see if the proposed action may affect an endangered species.

Unless expedited procedures are employed, EPA informs the public of its proposals to issue cancellation notices so that registrants and other interested persons can also comment or provide relevant information before a final Notice of Intent to Cancel is Issued. Registrants and other interested persons are invited to review the data upon which the proposal is based and to submit data and information to address whether EPA's initial determination of risk was in error. In addition to evidence relating to risks, comments may include evidence as to whether any economic, social, and environmental benefits of use of the pesticide outweigh the risks of use.

If, after reviewing the comments received, EPA decides to issue a Notice of Intent to Cancel, and adversely affected person may request a hearing to challenge the action. In the hearing, any party opposing cancellation would have an opportunity to present evidence. Other interested parties could intervene to present evidence. At the end of the hearing, EPA would decide on the basis of the evidence presented whether or not to cancel or restrict the registration of pesticide products. If no hearing is requested, each registration would be cancelled by operation of law 30 days after receipt by the registrant or publication in the **Federal Register** of the final notice, whichever occurs later.

II. Determination of Risks

A. Risk Assessment and Risk Reduction Measures

The Technical Support Document includes a detailed discussion of the developmental toxicity demonstrated by the cyanazine studies, which include anophthalmia, microphthalmia, skeletal variations, diaphragmatic hernia, dilated brain ventricles, and cleft palate, as well as detailed discussions of the Agency's exposure assessment and risk assessment.

The Agency's risk assessment indicates that, while the degree of risk varies depending on the use rate and the number of acres treated, the risk is unreasonable without the adoption of protective measures as specified herein.

Traditionally, the Agency prefers the use of an oral NOEL to assess the developmental toxicity hazard of dietary exposures and a dermal developmental toxicity NOEL for occupational exposures, because each NOEL provides information relative to the potential hazard posed by a pesticide from that chosen route of administration. Based on the NOEL (573 mg/kg/day) from the dermal developmental toxicity study in rabbits and exposure estimates from a cyanazine exposure study, margins-of-safety (MOSs) were developed using the following formula:

$$\text{Margin-of-Safety (MOS)} = \frac{\text{Dermal Developmental Toxicity NOEL}}{\text{Exposure level}}$$

The Agency generally considers a MOS of less than 100 for this biological endpoint to be a matter of concern.

1. *Ground Boom Application.* The MOSs presented for ground boom application assume that the mixer/loader and applicator are the same person. The MOSs are greater than 100 for all application rates to corn, cotton, wheat fallow, and milo when protective gloves are worn during mixing and loading operations and when adjusting, repairing, or cleaning equipment, as shown in the following Table 1:

TABLE 1—MARGINS-OF-SAFETY FOR GROUND BOOM APPLICATION [1]

	Corn	Cotton	Wheat fallow	Milo
Applicator [2] No protection [3]	7	21	11	21
Gloves [3]	670	1,980	990	1,980
Gloves/closed cab	4,240	12,730	6,370	12,730

[1] The MOSs in this table are for the highest use rates.

[2] Assumes that mixer/loader and applicator are the same person.

[3] The approximately two order of magnitude difference in the MOSs between the no glove scenario and the glove scenario is a result of comparing two independent data bases and the effect of protective gloves on reducing exposure. A worker exposure study submitted by the registrant contained exposure data only for handling scenarios in which gloves were worn. This Table is not intended to imply that protective gloves can reduce total dermal exposure by two orders of magnitude.

2. *Aerial Application.* Aerial application to corn, grain sorghum, and wheat fallow is minimal. There are no data showing that cyanazine is being applied aerially to cotton.

The MOSs for mixer/loaders during aerial use are less than 100 unless protective gloves are worn during mixing and loading operations and when adjusting, repairing, or cleaning equipment and a closed loading system is used, as shown in the following Table 2:

TABLE 2.—MARGINS-OF-SAFETY FOR AERIAL APPLICATION [1]

	Grain sorghum	Corn	Wheat fallow
Applicator (Pilot)	320	170	250
Mixer/Loader:			
No Protection (open pour)	5	2	2
Gloves (open pour)	24	11	12
Gloves/ Closed System	1000	440	520

[1] The MOSs in this table are for the highest use rates.

3. *Chemigation.* Corn is the only crop for which chemigation is listed on the label as an application method. The MOSs for chemigation are less than 100 unless protective gloves are worn during mixing and loading operations and when adjusting, repairing, or cleaning equipment, and a closed loading system is used, as shown in the following Table 3:

TABLE 3.—MARGINS-OF-SAFETY FOR CHEMIGATION [1]

	Corn
Applicator:	
No protection (open pour)	13
Gloves (open pour)	59
Gloves/Closed System	2490

[1] The MOSs in this table are for the highest use rate.

4. *Spray Drift.* Surrogate exposure studies were used to estimate exposure to cyanazine through spray drift. Based on these exposure estimates, the MOS for a population exposed to cyanazine by spray drift would be over 1000.

B. Other Risk Reduction Measures

1. *Separate Laundering.* Secondary exposure may occur when contaminated clothes are brought home. Although data are not available to quanitfy such exposure, data do show that cross-contamination does occur when contaminated clothes are washed with household laundry. Washing cynazine-contaminated clothes separately from household laundry would prevent cross-contamination of other laundry.

2. *Chemical-Resistant Aprons.* While the risk of dermal exposure to the body from leaning against tanks during mixing or loading operations (a common occurrence) and accidental spills cannot be quantified, it may be significant in light of the developmental toxicity of cyanazine. Wearing a chemical-resistant apron while mixing or loading cyanazine would reduce exposure from accidental contact or spills.

3. *Washing of Protective Gloves.* Because hands receive the largest percentage of the dermal exposure during mixing/loading, the Agency believes that protective gloves will be contaminated on the outside with cyanazine. If protective gloves are washed with soap and water after use and before being removed from the hands, the risk of exposure from contaminated gloves will be reduced.

4. *Restricted Use.* Cyanazine products have already been classified for Restricted Use, as stated in the cyanazine Registration Standard which was issued in January 1985. The Registration Standard stated that the reason for this Restricted Use classification was that cyanazine had been detected in ground water and surface water. Label language regarding cyanazine's developmental toxicity and detection in ground water and surface water was added to cyanazine labels in accordance with the Registration Standard, but this language was not explicitly tied to the Restricted Use requirement.

The Agency's preliminary determination proposed requiring labels to further state that cyanazine products have specifically been classified for Restricted Use because cyanazine has been found in ground water and because it has caused birth defects in laboratory animals. The Agency based that proposed requirement on the belief that the reasons a pesticide is classified for Restricted Use should be more prominently displayed on the labels so that the users and other members of the public can more readily identify these reasons.

State sponsored monitoring studies, available at the time the Registration Standard was issued, had located residues of cyanazine in wells in Iowa, Pennsylvania, Minnesota, Illinois, and Vermont. Only a small percentage of all the cyanazine samples taken were positive, at levels close to 1 part per billion (ppb). Also, the Agency Office of Water Regulations and Standards' STORET data base had reported finding cyanazine in wells. That data base included reports on 1564 samples, reporting 21 positive samples (1.3 percent), with the 85th percentile level equal to 0.2 ppb. (State agencies submit data into the STORET data base.)

To provide a more systematic evaluation of cyanazine's contamination potential, the Agency required the registrant to conduct a ground water and surface water monitoring study. Those data have now been submitted and reviewed and are summarized below.

Two study areas of two counties each were monitored in 1986. In the hydrogeologically vulnerable East Coast, Sussex County, Delaware and Worcester County, Maryland were sampled. In the moderately vulnerable Midwest study area, Champaign County, Illinois and Jones County, Iowa were studied. There were no positive results in the 400 samples (200 wells each sampled twice). These results have some consistency with the previously mentioned monitoring studies which showed 1 percent positives with findings near and less than 1 ppb.

As a result of the newly generated monitoring data and the previously available data, the Agency no longer believes that cyanazine has significant ground water contamination potential. Therefore, EPA no longer believes that gound water contamination should be a reason for classifying cyanazine for Restricted Use. Therefore, all cyanazine labels will include a statement that cyanazine products have been classified for Restricted Use only because cyanazine has caused birth defects in laboratory animals. However, because some instances of contamination were reported in the earlier studies, the Agency believes the ground water advisory statement should remain on the label.

III. Determination of Benefits

A. The Effect of the Risk Reduction Measures on Benefits

The Agency expects that the risk reduction measures required in this Notice will have a negligible effect on the benefits otherwise associated with the use of pesticide products containing cyanazine. The requirements involving separate laundering, washing of gloves, and adding a statement on Restricted Use to the cyanazine label will have minimal impact on the cost of using cyanazine pesticide products. The requirements to use protective gloves and aprons will have a negligible impact on the cost of use of cyanazine products. In as much as there is not a great deal of aerial use of cyanazine and most aerial applicators already have systems which allow for some degree of closed transfer, the requirement that aerial applicators use closed loading systems is not expected to have a significant impact on

the benefits associated with cyanazine use. Similarly, there is little use of cyanazine through chemigation, and the requirement that closed loading systems be used with chemigation is not expected to have a significant impact on benefits. None of the modifications are expected to prevent users from using cyanazine products wherever such products are currently used. Thus, the Agency believes that the required modifications will have a negligible impact on the benefits associated with the use of pesticide products containing cyanazine.

B. Benefits and the Types of Applications

1. *Ground Boom Application.* The largest use of cyanazine is for broadleaf and grass weed control in corn, accounting for about 95 percent of its total annual usage. Approximately 15 to 20 million acres (20 to 25 percent of the total U.S. corn acreage) of corn are treated annually with cyanazine as either the sole active ingredient or tank-mixed with other herbicides. Growers select cyanazine over other available herbicides for the following reasons: (a) It has a wide annual broadleaf and grass weed control spectrum; (b) it can be tank-mixed with a number of herbicides to broaden its weed cotnrol spectrum; (c) it has relatively short persistence in the soil; (d) it has no rotational crop restrictions; and (e) certain soil types and/or soil conditions require the use of a short residual herbicide in order to rotate to different crops. The Agency assumes that the overall impacts from cancellation of cyanazine use on corn could have significant impacts to individual users in those areas where soil conditions preclude the use of more persistent chemicals. The Agency assumes that since the costs of the required label modifications to the user are relatively low, no one who is currently using cyanazine would be kept from its use in the future. As a result, there would only be a negligible reduction in benefits in relation to those benefits which are currently realized.

Only small acreages of wheat fallow, cotton, and sorghum are treated with cyanazine in the United States. Cyanazine is used primarily where a broad spectrum of weed control is desirable without the carry-over associated with many of the more residual herbicides. As with the impact on benefits to cyanazine use on corn, the Agency also assumes that there would only be a negligible reduction in the benefits of cyanazine use of wheat fallow, cotton, and sorghum as a result of the required label modifications.

2. *Aerial Application.* Available data indicate that approximately 70,000 acres of corn are treated aerially with cyanazine. Aerial application to grain sorghum and wheat fallow is minimal. There are no data showing that cyanazine is being applied aerially to cotton. The main benefits from aerial application are the ability to treat either a large area in a short period of time or when the soil in the fields is too wet to allow access with ground equipment. The Agency assumes that the costs resulting from the label modification which requires closed systems for transfer of cyanazine will not create significant hardship or reduction in these benefits because most aerial applicators already have systems which allow for some degree of closed transfer.

3. *Chemigation.* No significant usage of cyanazine through chemigation has been reported. The Agency assumes that the required label modifications will therefore have no significant effect on the benefits associated with that type of application.

IV. Comments of USDA, SAP, and Public

A. Comments From USDA and Agency Response

In accordance with FIFRA section 6, the Agency's preliminary determination was sent to the U.S. Department of Agriculture (USDA) for comment.

Comment From USDA. USDA commented that EPA did not give a numerical estimate for the benefits of cyanazine use on corn and that EPA should examine the risks associated with cyanazine's alternatives.

Agency Response. In the Cyanazine Special Review Technical Support Document, which was issued with the Agency's preliminary determination on cyanazine, the Agency assumed that the overall impacts from cancellation of cyanazine on corn would be low due to the availability of registered alternatives. EPA did not conduct a quantitative estimate of the benefits of cyanazine use on corn because EPA concluded that the impacts on corn farmers will be negligible if the registrant maintains its registrations with the label modifications proposed by the Agency in its preliminary determination.

Therefore, the Agency does not expect those who use cyanazine now to stop using cyanazine and switch to an alternative herbicide because of the required modifications to cyanazine labels. However, as mentioned in the Agency's Technical Support Document for cyanazine, the following herbicides may be used as alternatives to cyanazine: Alachlor; atrazine; prometryn; propachlor; fluometuron; diuron; and simazine. The risks associated with these alternatives are given in Unit IV.A.1.–7. of this notice.

1. *Alachlor.* Sufficient toxicity data in laboratory animals are available in the Agency to classify this pesticide under toxicity category III for acute oral and dermal exposure. This chemical does not cause eye or skin irritation.

No teratogenic effects were demonstrated when alachlor was given to pregnant rats. However, administration of alachlor to rats at 30 mg/kg/day through three successive generations produced kidney alterations in F2 and F3 offspring. A reproductive NOEL was established by the Agency at 10 mg/kg/day.

Evidence of a mutagenic effect was not demonstrated in the several assays (CHO/HGPRT, Salmonella, *E. coli*, and *B. subtilis*). Data from chronic feeding studies indicated that alachlor induced nasal turbinate tumors in rats and bronchiolar alveolar tumors in female mice. This herbicide is classified as a category B2 oncogen (probable human carcinogen) by the Agency and a consolidated Q^* (cancer potency) of 8×10^{-2} for $(mg/kg/day)^{-1}$ human equivalents has been calculated. These risks are discussed in the Agency's Conclusion of Special Review for Alachlor signed on December 14, 1987.

2. *Atrazine.* The available toxicity data support the classification of atrazine under toxicity category III for acute oral, dermal, and inhalation exposure. Atrazine is neither a dermal nor eye irritant.

A rat developmental toxicity study has been classified as Supplementary Data because a developmental toxicity NOEL could not be established. The LOEL was 10 mg/kg/day (lowest dose tested), based on an increased incidence of runts. A maternal NOEL was established at 10 mg/kg/day, with decreased body weight observed at 70 mg/kg/day.

A rabbit developmental toxicity study showed a NOEL of 1 mg/kg/day and a LOEL of 5 mg/kg/day for maternal toxicity, based on reduced body weight gains. The NOEL for developmental toxicity was 5 mg/kg/day and the LOEL was 75 mg/kg/day, based on increased resorptions, reduced fetal weights for both sexes, and increases in delayed ossification. The rabbit study is also classified as Supplementary Data.

In a chronic/oncogenic rat study, an increase in carcinomas of the mammary glands was observed in females fed 70,

500, or 1000 parts per million (ppm) for 2 years. There was also an increase in the incidence of fibroadenomas/carcinomas (1000 ppm) and all mammary tumors in females receiving 500 and 1000 ppm, when compared to controls. The Agency has classified atrazine as a category C carcinogen (possible human carcinogen). Mammary gland adenocarcinoma incidence data were used to estimate the Q^* of atrazine. The Q^* was determined to be 1.24×10^{-1} (mg/kg/day)$^{-1}$ in human equivalents.

3. *Prometryn.* The available toxicity data place technical prometryn under toxicity category III for acute oral and dermal, and toxicity category IV for acute inhalation exposure. There is no evidence to suggest that prometryn is a dermal or eye irritant.

A developmental toxicity NOEL was established at 72 mg/kg in rabbits but no developmental toxicity NOEL could be ascertained from a rat teratology study. Although the rat multigeneration reproduction study was classified as supplementary data, there is no suggestive evidence of an adverse effect on reproduction up to and including the highest dose tested, 5 mg/kg/day.

Chronic and oncogenicity data are insufficient to assess the oncogenic potential of prometryn.

4. *Propachlor.* Propachlor is moderately toxic to laboratory animals. The acute oral and dermal LD50s are classified as toxicity category III and IV, respectively. Placement of propachlor in rabbit eyes produced corneal opacity, ulceration, iris irritation, chemosis, and conjunctivitis. This herbicide is also a strong dermal sensitizing agent.

Administration of propachlor to pregnant rats did not result in developmental toxicity up to and including a dosage level of 200 mg/kg.

The reproductive and the oncogenic potential cannot be ascertained since no valid studies are available. It is noteworthy to mention that propachlor is structurally related to alachlor (discussed previously), a B2 oncogen.

5. *Diuron.* Diuron is classified as toxicity category III for acute oral, dermal, and inhalation exposure. It does not produce eye or skin irritation.

No acceptable teratology studies are available to assess the developmental toxicity potential of diuron. A multigeneration reproduction study was conducted in rats and decreased F2b and F3a offspring weights were noted at the single dose level tested (6.25 mg/kg).

No acceptable oncogenicity studies are available. However, diuron was clastogenic in an *in vivo* cytogenetic assay. Further, diuron is structurally related to linuron, a category C oncogen (possible human carcinogen).

6. *Fluometuron.* Sufficient data are available to suggest that fluometuron has a low acute toxicity in laboratory animals. The acute oral and dermal LD50s and the acute inhalation LC50 belong to toxicity category III. However, fluometuron produces severe dermal irritation, corneal opacity, and may cause dermal sensitization.

No data are available to assess the developmental toxicity, reproductive, chronic, mutagenic, and oncogenic potential for this herbicide.

7. *Simazine.* Simazine is structurally related to atrazine and cyanazine. It is relatively non-toxic to laboratory animals after acute oral exposure (toxicity category IV). However, it is moderately toxic after inhalation (toxicity category II). The 80 percent wettable powder formulation produced corneal opacity and skin irritation.

A developmental toxicity NOEL was established in rabbits at 75 mg/kg/day with decreased fetal weights and increased skeletal variations noted at the 200 mg/kg/day. In the rat, administration of 100 ppm did not exert any adverse reproductive effect.

Data are inadequate to assess the chronic toxicity, oncogenic and mutagenic potentials of simazine.

In summary, the Agency has a more complete data base for cyanazine than for most of its alternatives. The most widely used alternative to cyanazine is atrazine, which may have more persistent residues, has been classified as a category C oncogen, and leaches through the ground at the same rate as cyanazine.

B. Comments From SAP and Agency Response

In accordance with FIFRA section 24, the Agency's preliminary determination was sent to the FIFRA Scientific Advisory Panel (SAP or Panel) for comment. An open meeting was held with the SAP on March 24, 1987 to discuss scientific issues being considered by the Agency in connection with the Special Review of cyanazine. Specifically, the Agency requested any comments that the Panel wished to make with regard to the Agency's use of the dermal developmental toxicity study to assess the hazards from dermal exposure.

1. *SAP Comment on Maternal Toxicity.* The Panel believed that the dermal developmental toxicity study was an appropriate data set for determining hazards from dermal exposure. However, the Panel also believed that the toxic endpoint that should have been used was the NOEL for dermal maternal systemic toxicity (96 mg/kg/day), not dermal developmental toxicity (573 mg/kg/day). The Panel stated that developmental toxicity occurred only at doses that were maternally toxic, and maternal systemic toxicity occurred at lower exposures; thus, a lower MOS existed for adult animals than for the developing fetus.

Agency Response. Oral administration of technical cyanazine induced developmental toxicity (including malformations) in rabbits and rats. From the rabbit oral developmental toxicity data, both maternal and fetal developmental toxicity NOELs were established at 1 mg/kg/day.

Dermal application of technical cyanazine produced maternal toxicity (body weight depression and food consumption reduction) at 283 mg/kg/day and above. A maternal NOEL was established at less than 96 mg/kg/day based upon dermal irritation and at 96 mg/kg/day based upon systemic effects. Developmental toxicity (delayed ossification) was found at 955 mg/kg/day and a dermal developmental toxicity NOEl was established at 573 mg/kg/day. The NOEL of 573 mg/kg/day for dermal developmental toxicity was used by the Agency to calculate risk in its preliminary determination.

A Peer Review Committee consisting of representatives from different Agency Offices met to discuss the comments raised by the SAP. The Peer Review Committee concluded that the use of the maternal NOEL from a developmental toxicity study in calculating the MOS may not be justified because:

a. In general, maternal toxicity end points determined from a developmental toxicity study (body weight, organ weight, food consumption, clinical signs) are insensitive parameters that do not reflect a true NOEL. Based upon the weight-of-evidence, determination of maternal toxicity requires scientific judgement on a case-by-case basis.

b. Developmental toxicity manifestations may or may not be associated with maternal toxicity because the mechanisms by which toxicity is manifested are different.

c. As a screening test, a developmental toxicity study is designed primarily to assess effects on the developing organism and does not allow characterization of subtle changes in systemic toxicity due to an inadequate length of exposure (10 days).

d. Manifestations of maternal systemic toxicity may result from repeated exposures whereas manifestations of developmental toxicity more likely result from a single exposure. Therefore, NOELs for maternal systemic toxicity and for

developmental toxicity may not reflect comparable lengths of time during which exposure occurred.

2. *SAP Comment on Label Language.* The SAP believes that the Agency is correct in requiring the label changes to reduce applicator exposure, but that it should not state that birth defects are the reason since developmental toxicity occurred at maternally toxic doses and maternal systemic toxicity occurred at lower exposures.

Agency Response. The SAP recommendation relative to "maternal toxicity occurred at lower doses than developmental toxicity" applied only to the dermal developmental toxicity data. By the oral route of administration, developmental toxicity and maternal toxicity are observed at the same dose level (both NOELs are established at 1 mg/kg/day and both LOELs are established at 2 mg/kg/day). The Agency's "Guideline for the Health Assessment of Suspect Developmental Toxicants (1986)" states that "when developmental effects are produced only at maternally toxic doses, the types of developmental effects should be examined carefully, and not discounted as being secondary to maternal toxicity. Current information is inadequate to assume that developmental effects at maternally toxic doses result only from the maternal toxicity; rather, when the lowest observed effect level is the same for the adult and developing organisms, it may simply indicate that both are sensitive to that dose level."

The developmental toxicity hazard of cyanazine was demonstrated by the oral route of administration (structural abnormalities including malformations) at maternally toxic doses, (indicating that both the mothers and developing organisms may be equally sensitive to that dose level), and confirmed by the dermal route of administration (developmental delay, altered growth) at doses higher than those producing maternal toxicity. Therefore, the developmental toxicity hazard of cyanazine is still of concern and failure to state that "* * * cyanazine has caused birth defects in laboratory animals * * *" is not justified. Consequently, the Agency supports its original position of requiring this advisory statement on cyanazine labels.

C. Comments From the Public and Agency Response

The only public comment submitted in response to the Agency's preliminary determination which challenged the Agency's position was submitted by the cyanazine registrant, E.I. Du Pont De Nemours Company (Du Pont). The Cyanazine Technical Support Document, which was issued with the Agency's preliminary determination, cited Shell Chemical Company, Setre Chemical Company, and R.F. Lindsey and Sons as the registrants for cyanazine. However, since the preparation of the Technical Support Document, Setre and Lindsey have voluntarily cancelled their cyanazine registrations, and Du Pont has purchased Shell's cyanazine registrations.

1. *Du Pont Comment on Birth Defects Labels.* Du Pont believed that there was no basis for concern from exposures associated with present use labels and that the statement regarding birth defects should be removed from the label. Also, Dupont stated that maternal toxicity was always seen at doses lower than those showing fetotoxicity, and therefore, cyanazine was not a true "teratogen" and should be of no concern.

Agency Response. By the dermal route of administration, structural anomalies (not malformations) are observed in rabbits at doses higher than those producing maternal toxicity. However, by the oral route of administration, manifestations of developmental toxicity, including malformations: Anophthalmia/microophthalmia; dilated brain ventricles; and diaphragmatic hernia, are observed in both rabbits and rats. Although these manifestations occur at a dose level which also produces some evidence of maternal toxicity, they cannot be considered as secondary to maternal toxicity.

Current information is inadequate to assume that developmental effects at maternally toxic doses result only from maternal toxicity; rather, when the lowest effect is the same for the adult and developing organisms, it simply indicates that both are sensitive to that dose level. Therefore, the association between developmental toxicity manifestations in both rats and rabbits by the oral route of administration and cyanazine cannot be ruled out. Based upon these data, there is evidence to suggest that cyanazine is a developmental toxicant (multispecies evidence of similar findings).

Du Pont's statement, "maternal toxicity was always seen at doses lower than those showing fetotoxicity," is misleading. This is true for the dermal but not for the oral studies in which maternal toxicity and fetotoxicity occurred at the same dosage level.

2. *Du Pont Comment on Separate Laundering.* Du Pont agreed that cross-contamination may occur when contaminated clothing is washed with household laundry and that separate laundering is a "prudent precaution" to take with all pesticide contaminated clothing. However, Du Pont questioned "the imposition of a requirement to launder cyanazine-contaminated clothing separately from household laundry in lieu of data specific to cyanazine." Du Pont believed that "this requirement should be added to cyanazine labels at the time this change is mandated for all pesticide labeling, unless specific data warrant otherwise."

Agency Response. The Agency notes that Du Pont agrees that it would be prudent to wash cyanazine-contaminated clothing separately from household laundry. The Agency believes that by stating such on the label it is more likely that this precaution will be taken. That label language is being required to be added to cyanazine labels at this time in order to reduce potential exposure and because the Agency has just completed its review of worker exposure to this chemical.

3. *Du Pont Comment on Chemical-Resistant Aprons.* Du Pont disagreed with the Agency's position regarding the use of chemical-resistant aprons. In opposition to a statement which was made in the Agency's preliminary determination, Du Pont stated that there were data to quantify the risks associated with dermal exposures resulting from leaning against mixing tanks and accidental spills; Du Pont stated that the cyanazine exposure study which was used by the Agency to calculate some of the risks presented in the preliminary determination employed all common practices in mixing and loading, including leaning against the spray tanks. Also, Du Pont believed that chemical-resistant aprons were bulky and cumbersome to wear and proposed the following label language, instead of requiring the use of chemical-resistant aprons:

> In case of accidental exposure, remove contaminated clothing and wash skin thoroughly with soap and water. Replace contaminated garments with clean, freshly laundered clothing before returning to pesticide handling operations.

Agency Response. The Agency has no indication that chemical-resistant aprons are difficult to wear and has imposed this requirement on other pesticide registrations. The Agency does not agree with Du Pont's proposed label language because it is unlikely that when an accidental spill occurs, a pesticide operator would be in a situation where it is convenient to immediately remove his/her clothing, put on clean clothing, and resume his/her duties.

4. *Du Pont Comment on Restricted Use Classification.* Du Pont also believed that cyanazine should be

reclassified from Restricted Use to general use. Du Pont based their position on the beliefs that: Cyanazine is not a teratogen in the absence of maternal effects; the Agency's requirements for additional protective clothing and closed loading systems will provide adequate occupational MOSs; and recently collected ground water samples did not contain detectable residues of cyanazine or the amide metabolite SD 20258.

Agency Response. The Agency agrees with Du Pont's comment that it is not appropriate to classify cyanazine for Restricted Use due to ground water concerns. As discussed in Unit II.B.4. of this notice, new monitoring data have shown that out of 400 samples from 200 wells in two East Coast counties and two Midwest counties, no detectable levels of cyanazine were found. However, the Agency continues to believe that cyanazine poses developmentally toxic concerns and that Restricted Use is an appropriate requirement to mitigate this concern.

The Agency has found that when a pesticide is classified for Restricted Use, the pesticide operators are better educated in the proper use of a pesticide. Therefore, it is more likely that label directions will be complied with, and practices are less likely to occur which may result in unreasonable exposures to mixers/loaders or applicators. Therefore, cyanazine will remain classified for Restricted Use because of its developmental toxicity.

V. Risk/Benefit Conclusions

As discussed in Unit II. of this notice, the Agency has found that there are substantial risks associated with the currently registered use patterns of pesticide products containing cyanazine. The Agency has also determined that there are modifications available that can significantly reduce these risks. The Agency has further determined in Unit III. of this notice that adoption of these modifications will have a negligible effect on the benefits associated with the use of pesticide products containing cyanazine. The Agency therefore believes that current use patterns generally cause unreasonable adverse effects upon the environment and that cyanazine products should be cancelled unless the following modifications are made:

1. For ground boom applications, the label must require: a. The use of protective gloves; b. use of chemical-resistant aprons; c. separate laundering of cyanazine-contaminated clothes; and d. washing of protective gloves. In addition, the label must include a statement explaining that cyanazine products have been classified for Restricted Use because cyanazine has caused birth defects in laboratory animals.

2. For aerial applications and chemigation, the label must require: a. The use of protective gloves; b. a closed loading system; c. use of chemical-resistant aprons; d. separate laundering of cyanazine-contaminated clothes; and e. washing of protective gloves. In addition, the label must include a statement explaining that cyanazine products have been classified for Restricted Use because cyanazine has caused birth defects in laboratory animals. The labels of product formulations which cannot be used in a closed loading system must contain language prohibiting the use of those formulations via aerial application and chemigation.

VI. Compliance With This Notice

A. Definitions

The following terms are defined for the purposes of this Unit.

1. "Manufacturer" refers to any registrant who, as defined, sells or distributes a pesticide product containing cyanazine.

2. "Distribute and sell" and grammatical variants refer to the distribution, sale, offering for sale, holding for sale, shipping, delivering for shipment, or receiving and (having so received) delivering or offering to deliver a pesticide product.

B. Requirements for Complying With This Notice

A manufacturer of any pesticide product containing cyanazine must submit an application to amend the registration of the product within 30 days of publication in the **Federal Register** or receipt of this notice, whichever is later, to be allowed to continue to sell and distribute the product. The application must propose to amend the registration of the product to include the following terms and conditions and modifications to labeling:

a. Require the use of protective gloves when mixing or loading cyanazine or when adjusting, repairing, or cleaning equipment.

b. Require the following precaution concerning the washing of protective gloves:

> Protective gloves must be washed with soap and water after use and before removing from the hands.

c. Require the use of closed systems in connection with aerial use and chemigation (product formulations which cannot be used in a closed loading system must prohibit aerial use and chemigation).

d. Require use of a chemical resistant apron when mixing or loading.

e. Require that all "Restricted Use" statements include a statement that cyanazine products have been classified for Restricted Use because cyanazine has caused birth defects in laboratory animals.

f. Include the following precaution concerning the washing of contaminated clothing:

> Cyanazine-contaminated clothing should be laundered separately from household laundry to prevent cross-contamination of other laundry. Heavily contaminated or drenched clothing and protective equipment must be discarded or destroyed in accordance with State and local regulations.

C. Existing Stocks and Disposal Provisions

Under the authority of FIFRA section 6(a)(1), EPA will establish certain limitations on the sale, distribution and use of existing stocks of cyanazine pesticide products subject to any final cancellation notice. EPA defines the term "existing stocks" to mean any quantity of cyanazine pesticide products in the United States on the effective date of final cancellation of a cyanazine registration or on the effective date an application for amendment of registration as provided for in Section VI.B of this notice is granted by the Agency. Such existing stocks include cyanazine products that have been formulated, packaged and labeled and are being held for shipment or release or have been shipped or released into commerce.

As stated earlier in this notice, EPA believes certain modifications to the terms and conditions of registration are necessary in order to prevent the use of cyanazine products from causing an unreasonable adverse effect upon the environment. In order to allow for the modifications to be made or to allow for substitution of alternative control methods, EPA will allow sale and distribution of existing stocks of cyanazine for up to six months after final cancellation or approval of an amendment to the registration. Existing stocks may be sold or distributed, by the registrant or by any other person, after this six-month period only if the stocks have been relabeled to reflect the modifications identified in this notice.

EPA also will allow use of existing stocks for up to 1 year after final cancellation or approval of an amendment to the registration. Existing stocks may be used after this one-year period only in accordance with the

modifications identified in this notice. Any disposal of existing stocks not relabeled in accordance with this notice must be in accordance with the requirements of the Resource Conservation and Recovery Act.

Any existing stocks provisions involved in voluntary cancellation of a cyanazine product prior to the publication of the final Notice is not affected by this provision.

VII. Procedural Matters

This notice announces EPA's intent to cancel the registrations of pesticide products that contain cyanazine. This Unit explains how current registrants may apply to amend their registrations to comply with the terms and conditions discussed in Unit V. of this notice.

Under sections 6(b) and 3(c)(6) of FIFRA, applicants, registrants, and certain other adversely affected persons are also entitled to respond to this notice by requesting a hearing on the actions that EPA is initiating. Unless a hearing is properly requested with regard to a particular registration or application, this action will become final by operation of law.

This Unit of the Notice explains how much persons may request a hearing on EPA's final cancellation and denial notice (and the consequences of requesting a hearing or failing to request a hearing in accordance with these procedures).

A. Procedures for Amending the Terms and Conditions of Registration To Avoid Cancellation or Denial of Application

Registrants affected by the cancellation actions set forth in this notice may avoid cancellation by filing for an application for an amended registration which contains the label modifications detailed in Unit VI.B of this notice. This application must be filed within 30 days of receipt of this notice or within 30 days from the publication of this notice, whichever occurs later. Applicants for a registration subject to this notice must file an amended application for registration within the applicable 30-day period to avoid denial of their pending application.

Applications must be submitted to: Robert J. Taylor, Product Manager 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, DC 20460, (703–557–1800).

B. Procedures for Requesting a Hearing

To contest the cancellation action set forth in this notice, Federal registrants or applicants may request a hearing within 30 days of receipt of this notice, or within 30 days from publication of this notice, whichever occurs later. Any other person adversely affected by the action described in this notice may request a hearing within 30 days of publication of this notice in the **Federal Register.**

A registrant or other adversely affected party who requests a hearing must file the request in accordance with the procedures established by FIFRA and EPA's Rules of Practice Governing Hearings under 40 CFR Part 164. These procedures requires, among other things, that all requests must identify the specific pesticide product(s) for which a hearing is requested, and that all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requiremenbuts may result in denial of the request for a hearing. Requests for a hearing should also be accompanied by objections that are specific for each use of each pesticide product(s) for which a hearing is requested.

Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

1. *Consequences of filing a timely and effective hearing request* If a hearing on the action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by EPA's Rules of Practice for hearings under FIFRA section 6 (40 CFR Part 164), as modified below. The hearing will be limited to the specific uses and specific product registrations for which the hearing is requested.

In the event of a hearing, the specific use or uses of the specific registered product which is the subject of the hearing request will not be cancelled except pursuant to an order of the Administrator at the conclusion of the hearing.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the registration of a specific pesticide product subject to this notice is not requested by the end of the applicable 30-day period, registration of that product will be cancelled, unless the registrant files a request for an amended registration within the statutory period provided herein. (See Unit VI of this notice.)

If the registration of a product covered by this notice is cancelled by operation of law, the sale and distribution of existing stocks is governed by the provisions of Unit VI of this notice.

C. Separation of Functions

EPA's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives (40 CFR 164.7).

Accordingly, the following EPA offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of EPA in any administrative hearing arising from this Notice of Intent to Cancel: The Office of the Administrative Law Judge, the Office of the Judicial Officer, the Administrator, and the Deputy Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication on the merits of any of the issues involved in this proceeding, with the trial staff or any interested person not employed by EPA, without fully complying with the applicable regulations.

VIII. Public Docket

Pursuant to 40 CFR 154.15, the Agency has established a public docket (OPP–30000/46B) for the Cyanazine Special Review. This public docket includes:

(1) This notice.

(2) Any other notices pertinent to the cyanazine Special Review.

(3) Non-CBI documents and copies of written comments or other materials submitted to the Agency in response to this notice, and any other notice, regarding cyanazine submitted at any time during the Special Review process by any person outside government.

(4) A transcript of any public meeting held by the Agency for the purpose of gathering information on cyanazine.

(5) Memoranda describing each meeting held during the Special Review process between Agency personnel and any person outside government pertaining to cyanazine.

(6) A current index of materials in the cyanazine public docket.

On a monthly basis, the Agency will distribute a compendium of indices for newly received comments and documents that have been placed in the public docket for this Special Review. This compendium will be distributed by mail to those members of the public who have specifically requested such material for this Special Review, pursuant to 40 CFR 154.15(f)(3).

Dated: December 29, 1987.

John A. Moore,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 88–508 Filed 1–12–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

[Docket No. 88-1]

Agreement Provisions on Loyalty Contracts; Order to Show Cause; Consolidation of Proceeding With FMC Docket No. 87-26; Establishment of Procedural Schedule for Consolidated Dockets; North Europe-U.S. Pacific Freight Conference Agreement et al.

Agreement No. 202-000093-040, North Europe-U.S. Pacific Freight Conference Agreement;
Agreement No. 202-010270-024, Gulf-European Freight Association Agreement;
Agreement No. 202-010656-024, North Europe-U.S. Gulf Freight Association Agreement;
Agreement No. 202-010636-028, U.S. Atlantic-North Europe Conference Agreement;
Agreement No. 202-010637-025, North Europe-U.S. Atlantic Conference Agreemnt.

This proceeding is instituted pursuant to sections 5, 8, 10, 11, 12 and 13 of the Shipping Act of 1984 ("1984 Act" or "Act"), 46 U.S.C. app. sections 1704, 1707, 1709, 1710, 1711 and 1712.

The following conferences or associations of ocean common carriers (collectively, "the Conferences") have filed agreements each having the effect of proscribing or regulating the use of loyalty contracts:

The North Europe-U.S. Pacific Freight Conference ("NEUSPFC") filed on behalf of its members [1] Agreement No. 202-000093-040 ("NEUSPFC Agreement"), which modifies Article 11 of the basic conference agreement. Under provisions of section 6 of the Shipping Act of 1984, 46 U.S.C. app. section 1705, the NEUSPFC Agreement is scheduled to become effective on January 11, 1988.

The Gulf-European Freight Association ("GEFA") filed on behalf of its members [2] Agreement No. 202-010270-024 ("CEFA Agreement"), which modifies Article 5 of the basic conference agreement. The GEFA Agreement is scheduled to become effective January 18, 1988.

The North Europe-U.S. Gulf Freight Association ("NEGFA") filed on behalf of its members [3] Agreement No. 202-010656-024 ("NEGFA Agreement"), which modifies Article 5 of the basic conference agreement. The NEGFA Agreement is scheduled to become effective January 18, 1988.

The U.S. Atlantic-North Europe Conference ("ANEC") filed on behalf of its members [4] Agreement No. 202-010636-028 ("ANEC Agreement"), which modifies Article 5 of the basic conference agreement. The ANEC Agreement is scheduled to become effective January 18, 1988.

The North Europe-U.S. Atlantic Conference ("NEAC") filed on behalf of its members [5] Agreement No. 202-010637-025 ("NEAC Agreement"), which modifies Article 5 of the basic conference agreement. The NEAC Agreement is scheduled to become effective on January 18, 1988.

The five agreements referenced above (collectively, "the Agreements") share common characteristics and effect. The Agreements provide, *inter alia*, that (1) members of the Conferences are prohibited from taking independent action ("IA") for the purpose of entering into loyalty contracts with shippers; and (2) members of the Conferences are individually prohibited from entering into such loyalty contracts. The Agreements differ only in that the GEFA, NEGFA, ANEC and NEAC Agreements purport to authorize conference loyalty contracts in conformity with the antitrust laws [6] while the NEUSPFC Agreement is silent on the subject of loyalty contracts at the conference level.

The foregoing loyalty contract provisions of the subject Agreements are substantially similar in language and effect to that filed by the Transpacific Westbound Rate Agreement ("TWRA") in Agreement No. 202-010689-027 ("TWRA Agreement"). The Commission recently directed the TWRA and its members to demonstrate why their restrictions on loyalty contracts should not be found in violation of the Shipping Act of 1984. *See* FMC Docket No. 87-26, *Agreement No. 202-010689-027 Transpacific Westbound Rate Agreement—Loyalty Contracts*, Order to Show Cause, served December 3, 1987. For the reasons set forth below, the Commission has determined that it should also examine in a show cause proceeding the lawfulness and basis for the instant Agreements. As these Agreements share common legal issues with the TWRA Agreement, the Commission has further determined that it will consolidate this docket with proceedings previously instituted in FMC Docket No. 87-26 for purposes of further hearing and decision. [7]

The term "loyalty contract" is defined at section 3(14) of the 1984 Act, 46 U.S.C. app. section 1702(14), to mean:

> * * * a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a shipper obtains lower rates by commiting all or a fixed portion of its cargo to that carrier or conference.

It appears that the cited articles of the Agreements violate the Act for the reasons which follow.

Section 5(b) of the 1984 Act, [8] 46 U.S.C. app. section 1704(b)(8), requires that each conference agreement must provide that its members may take independent action "on any rate or service item required to be filed in a tariff under section 8(a)." * * *" As pertinent, section 8(a)(1), 46 U.S.C. app. section 1707(a)(1), requires that tariffs shall:

* * * * *

* * * * *

> (E) include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

Accordingly, it appears that a loyalty contract is a rate or service item required to be included in a tariff within the meaning of section 8(a) of the 1984 Act. Therefore, by prohibiting IA on loyalty contracts, it appears that the Agreements are in violation of section 5(b)(8) of the Act.

The sole statutory provision expressly restricting the use of a loyalty contract by an ocean carrier is section 10(b)(9) of the 1984 Act, 46 U.S.C. app. section 1709(b)(9) which requires that such contract conform to the antitrust laws. However, it appears that neither section 10(b)(9) nor any other provision of the 1984 Act authorizes a conference to undertake any action infringing upon a member's prerogative to enter into loyalty contracts.

Section 5(b)(5) of the Act, 46 U.S.C. app. section 1704(b)(5), requires that each conference agreement must "prohibit the conference from engaging in conduct prohibited by section 10(c)(1)" of the Act. Section 10(c)(1), 46 U.S.C. app. section 1709(c)(1), provides

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[1] The members of NEUSPFC are identified in Appendix 1.

[2] The members of GEFA are identified in Appendix 2.

[3] GEFA and NEGFA share a common membership. Members of NEGFA are identified in Appendix 2.

[4] The members of ANEC are identified in Appendix 3.

[5] ANEC and NEAC share a common membership. Members of NEAC are identified in Appendix 3.

[6] The GEFA, NEGFA, ANEC and NEAC Agreements utilize operative agreement language which is identical for all four conferences.

[7] The Commission intends that a uniform procedural schedule govern all parties to these consolidated dockets. Respondents and intervenors in Docket No. 87-26 will therefore be afforded additional time to prepare their initial affidavits and memoranda of law, consistent with the new timetable for hearing set forth herein.

[8] As pertinent, section 5 provides:

(b) Conference Agreements—Each conference agreement must—

* * * * *

(8) provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act * * * in lieu of the existing conference tariff provisions for that rate or service item.

that no conference or group of two or more common carriers may:

boycott or take any other concerted action resulting in an unreasonable refusal to deal.

Further, section 10(a)(3) of the Act, 46 U.S.C. app. section 1709(a)(3) provides that no person may "operate under an agreement required to be filed * * * except in accordance with the terms of the agreement * * *."

Article 11 of each of the underlying agreements of the respondent Conferences provides, *inter alia*, that the conference shall not take concerted action resulting in an unreasonable refusal to deal. Nonetheless, by collectively authorizing and agreeing to their respective Agreements, which agreement provisions severally and jointly result in an arbitrary and capricious refusal to deal with shippers who might otherwise seek to enter into loyalty contracts, it appears that the Conferences and their members negated the effect of and operated contrary to Article 11 and the prohibition required by section 5(b)(5). It therefore appears that the Conferences and their members have violated sections 5(b)(5), 10(a)(3), and 10(c)(1) of the Act.

In this connection, we vote that the GEFA, NEGFA, ANEC, and NEAC Agreements differ from those of TWRA and NEUSPFC in that the former would authorize conference loyalty contracts. Our concern is that this is a distinction without a difference, if the authority is not exercised.[9]

Now therefore, it is ordered That pursuant to section 11 of the Shipping Act of 1984, the North Europe-U.S. Pacific Freight Conference Agreement, Gulf-European Freight Association Agreement, North Europe-U.S. Gulf Freight Association Agreement, U.S. Atlantic-North Europe Conference Agreement, and North Europe-U.S. Atlantic Conference Agreement and their members show cause why they should not be found to be operating in violation of section 5(b)(8) of the Shipping Act of 1984 for not complying with the mandatory independent action provision of that section of the 1984 Act and, if found to be operating in violation, why the Agreements should not be disapproved, canceled, or modified by the Commission;

It is further ordered That pursuant to section 11 of the Shipping Act of 1984, the North Europe-U.S. Pacific Freight Conference Agreement, Gulf-European Freight Association Agreement, North Europe-U.S. Gulf Freight Association Agreement, U.S. Atlantic-North Europe Conference Agreement, and North Europe-U.S. Atlantic Conference Agreement and their members show cause why they should not be found to be in violation of section 5(b)(5) of the Shipping Act of 1984 for not prohibiting concerted action resulting in an unreasonable refusal to deal and, if found to be operating in violation of section 5(b)(5) of the 1984 Act, why the Agreements should not be disappproved, cancelled or modified by the Commission;

It is further ordered That pursuant to section 11 of the Shipping Act of 1984, the North Europe-U.S. Pacific Freight Conference Agreement, Gulf-European Freight Association Agreement, North Europe-U.S. Gulf Freight Association Agreement, U.S. Atlantic-North Europe Conference Agreement, and North Europe-U.S. Atlantic Conference Agreement and their members show cause why they should not be found to be in violation of section 10(c)(1) of the Shipping Act of 1984 for taking concerted action resulting in an unreasonable refusal to deal and, if found to be operating in violation of section 10(c)(1) of the 1984 Act, why the Agreements should not be disapproved, canceled or modified by the Commission;

It is further ordered That pursuant to section 11 of the Shipping Act of 1984, the North Europe-U.S. Pacific Freight Conference Agreement, Gulf-Europe Freight Association Agreement, North Europe-U.S. Gulf Freight Association Agreement, U.S. Atlantic-North Europe Conference Agreement, and North Europe-U.S. Atlantic Conference Agreement and their members show cause why they should not be found to be in violation of section 10(a)(3) of the Shipping Act of 1984 for operating other than in accordance with the terms of the underlying conference agreement, which prohibits taking concerted action resulting in an unreasonable refusal to deal and, if found to be operating in violation, why the Agreements should not be disapproved, canceled or modified by the Commission;

It is further ordered That should it be determined that North Europe-U.S. Pacific Freight Conference Agreement, Gulf-European Freight Association Agreement, North Europe-U.S. Gulf Freight Association Agreement, U.S. Atlantic-North Europe Conference Agreement, and North Europe-U.S. Atlantic Conference Agreement and their members have operated in violation of sections 5(b)(5), 5(b)(8), 10(a)(3) or 10(c)(1) of the Act the matter may, pursuant to section 13 of the Shipping Act of 1984, be referred to an Administrative Law Judge in an appropriate proceeding to determine whether penalties should be assessed and, if so, the level of such penalties;

It is further ordered That this proceeding is limited to the submission of affidavits of fact and memoranda of law;

It is further ordered That the North Europe-U.S. Pacific Freight Conference Agreement; Gulf-European Freight Association Agreement; North Europe-U.S. Gulf Freight Association Agreement; U.S. Atlantic-North Europe Conference Agreement; North Europe-U.S. Atlantic Conference Agreement; and their respective members are named Respondents in this proceeding;

It is further ordered That the Commission's Bureau of Hearing Counsel be made a party to this proceeding;

It is further ordered That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact and shall be filed no later than the date fixed below;

It is further ordered That this proceeding is hereby consolidated for purposes of hearing and decision with proceedings in FMC Docket No. 87-26, *Agreement No. 202-010689-027, Transpacific Westbound Rate Agreement—Loyalty Contracts;*

It is further ordered That:

(a) Affidavits of fact and memoranda of law shall be filed by Respondents in these consolidated proceedings and any

[9] This proceeding is instituted for the purpose of determining whether the Agreements are in conformity with the 1984 Act in prohibiting their members from entering into loyalty contracts with shippers. Because the provisions of particular loyalty contracts are not in issue here, this proceeding does not seek to inquire into the lawfulness of any such loyalty contract—e.g., whether a particular loyalty contract may violate section 10(b)(10) of the Act, 46 U.S.C. app. section 1709(b)(10), which prohibits a common carrier from demanding, charging or collecting any rate or charge that is unjustly discriminatory between shippers or ports. Nor does this proceeding seek to address whether a particular loyalty contract offered by a carrier or conference violates section 10(b)(9) of the Act, which prohibits use of a loyalty contract except in conformity with the antitrust laws.

intervenors in support of the Agreements no later than February 16, 1988;

(b) Reply affidavits and memoranda of law shall be filed by the Bureau of Hearing Counsel, Protestants in Docket No. 87–26, and any intervenors in opposition to the Agreements no later than March 17, 1988;

(c) Rebuttal affidavits and memoranda of law, if any, shall be filed by Respondents in these consolidated proceedings and any intervenors in support of the Agreements no later than April 1, 1988;

It is further ordered That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefor and why argument by memorandum is inadequate to present the party's case; and

(c) Any such request for evidentiary hearing or oral argument shall be filed no later than April 11, 1988;

It is further ordered That notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon all Respondents and Protestants in these consolidated proceedings;

It is further ordered That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502–118, as well as being mailed directly to all parties of record;

Finally, it is ordered That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the final decision of the Commission in this proceeding shall be issued by August 1, 1988.

By the Commission.

Joseph C. Polking,

Secretary.

Appendix 1

North Europe-U.S. Pacific Freight Conference Agreement

[Agreement No. 202–000093–040]

Members: Hapag-Lloyd AG, Johnson Scanstar, Compagnie Generale Maritime, Incotrans BV, Sea-Land Service, Inc.

Appendix 2

Gulf-European Freight Association Agreement

[Agreement No. 202–010270–024]

Members: Compagnie Generale Maritime, Lykes Bros. Steamship Co., Inc., Gulf Container Line, B.V., Hapag-Lloyd AG, Sea-Land Service, Inc., P&OCL (Trans Freight Lines) Ltd., Nedlloyd Lijnen, B.V.

North Europe-U.S. Gulf Freight Association Agreement

[Agreement No. 202–010656–024]

Members: Compagnie Generale Maritime, Lykes Bros. Steamship Co., Inc., Gulf Container Line, B.V., Hapag-Lloyd AG, Sea-Land Service, Inc., P&OCL (Trans Freight Lines) Ltd., Nedlloyd Lijnen, B.V.

Appendix 3

U.S. Atlantic-North Europe Conference Agreement

[Agreement No. 202–010636–028]

Members: Atlantic Container Line, B.V., Dart-ML Ltd., Hapag-Lloyd AG, Sea-Land Service, Inc., Gulf Container Line, B.V., P&OCL (Trans Freight Lines) Ltd., Compagnie Generale Maritime, Nedlloyd Lijnen, B.V.

North Europe-U.S. Atlantic Conference Agreement

[Agreement No. 202–010637–025]

Members: Atlantic Container Line, B.V., Dart-ML Ltd., Hapag-Lloyd AG, Sea-Land Service, Inc., Gulf Container Line, B.V., P&OCL (Trans Freight Lines) Ltd., Compagnie Generale Maritime, Nedlloyd Lijnen, B.V.

[FR Doc. 88–570 Filed 1–12–88; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for February through March 1988, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland, 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	February–March 1988 meetings	Time	Location
Allergy & Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380	Feb. 16-18	8:30	Le Meridien Hotel, Newport Beach, CA.
Bacteriology & Mycology-1, Dr. Timothy J. Henry, Rm. 304, Tel. 301-496-7340	Feb. 10-12	8:30	Guest Quarters Hotel, Bethesda, MD.
Bacteriology & Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301-496-7682	Feb. 17-19	8:30	Crowne Plaza, Rockville, MD.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 438, Tel. 301-496-7109	Feb. 10-12	9:00	Omni Georgetown Hotel, Washington, DC.
Biochemical Endocrinology, Dr. Janos Varga, Rm. 226, Tel. 301-496-7430	Feb. 17-19	9:00	Crowne Plaza, Rockville, MD.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301-496-7516	Feb. 11-13	8:30	Howard Johnson, Convention Ctr., Miami, FL.
Biochemistry-2, Dr. Alex Liacouras, Rm. 318A,Tel. 301-496-7517	Feb. 18-20	8:30	Crowne Plaza, Rockville, MD.
Bio-Organic & Natural Products Chemistry, Dr. Michael Rogers, Rm. 5, Tel. 301-496-7107	Feb. 25-27	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070	Feb. 25-27	8:30	Hotel San Carlos, Phoenix, AZ.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	Feb. 8-11	9:00	Ramada Inn, Bethesda, MD.

Study section	February-March 1988 meetings	Time	Location
Cardiovascular & Pulmonary, Dr. Anthony C. Chung, Rm. 2A-04, Tel. 301-496-7316	Feb. 23-25	8:30	Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	Feb. 22-24	8:30	Holiday Inn, Georgetown, DC.
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396	Mar. 2-4	8:00	Basement Room, Federal Building, Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Hugh Stamper, Rm. 340, Tel. 301-496-8844	Feb. 22-24	8:30	Holiday Inn, Bethesda, DC.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078	Feb. 24-26	8:30	Crowne Plaza, Rockville, MD.
Diagnostic Radiology, Dr. Catharine Wingate, Rm. 219B, Tel. 301-496-7650	Feb. 24-26	8:30	Omni Georgetown, Hotel, Washington, DC.
Endocrinology, Dr. Harry Brodie, Rm. 333, Tel. 301-496-7346	Feb. 3-5	8:30	Hyatt Regency, Bethesda, MD.
Epidemiology & Disease Control-1, Dr. Nathan Watzman, Rm. 203C, Tel. 301-496-7246	Feb. 10-12	8:30	Holiday Inn, Chevy Chase, MD.
Epidemiology & Disease Control-2, Dr. Horace Stiles, Rm. 340, Tel. 301-496-7248	Feb. 10-12	8:30	Holiday Inn, Chevy Chase, MD.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940	Feb. 16-18	8:00	Hyatt Regency Hotel, Bethesda, MD.
Experimental Immunology, Dr. Calbert Lang, Rm. 222B, Tel. 301-496-7238	Feb. 24-26	8:00	Omni Georgetown Hotel, Washington, DC.
Experimental Therapeutics-1, Dr. Morris Kelsey, Rm. 221, Tel. 301-496-7839	Feb. 10-12	8:30	Hyatt Regency Hotel, Bethesda, MD.
Experimental Therapeutics-2, Dr. Marcia Litwack, Rm. 2AO3, Tel. 301-496-8848	Mar. 3-4	8:30	Guest Quarters, Hotel, Bethesda, MD.
Experimental Virology, Dr. Garrett V. Keefer, Rm. 206, Tel. 301-496-7474	Feb. 26-28	8:30	Quail Ridge Inn, Taos, NM.
General Medicine A-1, Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	Feb. 29-Mar. 2	8:30	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine A-2, Dr. Donna J. Dean, Rm. 354B, Tel. 301-496-7140	Feb. 24-26	8:30	Room 6, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Daniel McDonald, Rm. 322, Tel. 301-496-7730	Feb. 24-26	8:00	Marbury House, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301-496-7271	Feb. 11-13	9:00	Holiday Inn, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 225, Tel. 301-496-7494	Feb. 10-12	8:30	Omni Shoreham Hotel, Washington, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	Feb. 18-20	8:00	Hyatt Regency Hotel, Bethesda, MD.
Hematology-2, Dr. Joel Solomon, Rm. 355B, Tel. 301-496-7508	Feb. 24-26	8:00	Ramada Inn, Bethesda, MD.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	Feb. 17-19	8:30	Sheraton Brickell Point, Miami, FL.
Human Development & Aging-2, Dr. Louis Quatrano, Rm. 305, Tel. 301-496-7640	Feb. 10-12	8:30	Holiday Inn, Georgetown, DC.
Human Development & Aging-3, Dr. Anita Sostek, Rm. 203A, Tel. 301-496-9403	Feb. 17-19	8:30	Sheraton Brickell Point, Miami, FL.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 319A, Tel. 301-496-7597	Feb. 23-25	8:30	Linden Hill Hotel, Bethesda, MD.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301-496-7780	Feb. 17-19	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences, Dr. Anita Weinblatt, Rm. 233A, Tel. 301-496-7179	Feb. 24-26	8:30	Howard Johnson Wellington Hotel, Washington, DC.
Mamalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	Feb. 18-20	8:30	Crowne Plaza, Rockville, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. 5, Tel. 301-496-7107	Feb. 17-19	9:00	Holiday Inn, Bethesda, MD.
Metabolic Pathology, Dr. Marcelina Powers, Rm. 435, Tel. 301-496-5251	Feb. 10-12	9:00	Howard Johnson Wellington Hotel, Washington, DC.
Metabolism, Dr. Krish Krishnan, Rm. 339A, Tel. 301-496-7091	Mar. 3-5	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Metallobiochemistry, Dr. Edward Zapolski, Rm. 310, Tel. 301-496-7733	Feb. 18-20	8:30	Omni Georgetown Hotel, Washington, DC.
Microbial Physiology & Genetics-1, Dr. Martin Slater, Rm. 238, Tel. 301-496-7183	Feb. 24-26	8:30	Crowne Plaza, Rockville, MD.
Microbial Physiology & Genetics-2 Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130	Feb. 9-11	8:30	Hyatt Regency Hotel, Bethesda, MD.
Molecular & Cellular Biophysics, Dr. Patricia Jost, Rm. 236A, Tel. 301-496-7060	Feb. 18-20	8:30	One Washington Circle Hotel, Washington, DC.
Molecular Biology, Dr. Zain Abedin, Rm. 328, Tel. 301-496-7830	Feb. 18-20	8:30	Days Inn, Rockville, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	Feb. 4-6	8:30	Crowne Plaza, Rockville, MD.
Neurological Sciences-1, Dr. Allen C. Stoolmiller, Rm. 437B, Tel 301-496-7279	Feb. 17-19	8:00	Tucson Hilton East, Tucson, AZ.
Neurological Sciences-2, Dr. Stephen Gobel, Rm. 1AO5, Tel. 301-496-8808	Feb. 17-19	8:30	Tucson Hilton East, Tucson, AZ
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301-496-7095	Feb. 10-12	8:30	Hyatt Regency Hotel, Bethesda, MD.
Neurology B-1, Dr. Jo Ann McConnell, Rm. 152, Tel. 301-496-7846	Feb. 23-26	8:30	One Washington Circle Hotel, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 152, Tel. 301-496-7422	Feb. 16-19	8:00	Howard Johnson Wellington Hotel, Washington, DC.
Neurology C, Dr. Kenneth Newrock, Rm. 232, Tel. 301-496-5591	Feb. 17-19	8:30	Omni Georgetown Hotel, Washington, DC.
Nursing Research, Dr. Gertrude McFarland, Rm. A18, Tel. 301-496-0558	Mar. 8-10	8:00	Linden Hill Hotel, Bethesda, MD.
Nutrition, Dr. Ai Lien Wu, Rm. 204, Tel. 301-496-7178	Feb. 29-Mar. 2	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine-1, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	Feb. 22-25	8:30	Days Inn, Rockville, MD.
Oral Biology & Medicine-2, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	Feb. 8-11	8:30	Days Inn, Rockville, MD.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Rm. 350, Tel. 301-496-7581	Mar. 2-4	8:30	Crowne Plaza, Rockville, MD.
Pathobiochemistry, Dr. John Mathis, Rm. A26, Tel. 301-496-7820	Feb. 24-26	8:30	Holiday Inn, Chevy Chase, MD.
Pathology A, Dr. John L. Meyer, Rm. 337, Tel. 301-496-7305	Mar. 1-4	8:30	Crowne Plaza, Rockville, MD.
Pathology B, Dr. Gerrald Fried, Rm. 340, Tel. 301-496-7248	Feb. 24-26	8:30	Ramada Inn, Bethesda, MD.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	Feb. 16-18	8:30	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 218B, Tel. 301-496-7120	Feb. 15-17	8:30	Crowne Plaza, Rockville, MD.
Physiological Chemistry, Dr. Stanley Burrous, Rm. 339B, Tel. 301-496-7837	Feb. 25-27	8:00	Holiday Inn, Georgetown, DC.
Physiology, Dr. Michael A. Lang, Rm. 209, Tel. 301-496-7878	Feb. 25-27	9:00	Adams Hilton Hotel, Phoenix, AZ.
Radiation, Dr. John Zimbrick, Rm. 219A, Tel. 301-496-7073	Feb. 22-24	8:30	Holiday Inn, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	Feb. 8-11	8:30	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Bela Gulyas, Rm. 325B, Tel. 301-496-8857	Feb. 10-12	8:30	Holiday Inn, Bethesda, MD.
Respiratory & Applied Physiology, Dr. Clyde Watkins, Rm. 218A, Tel. 301-496-7320	Feb. 22-24	8:00	Room 8, Bldg. 31C, Bethesda, MD.
Safety & Occupational Health, Dr. Richard Rhoden, Rm. 154, Tel. 301-496-6723	Feb. 24-26	8:30	Hotel Tower Place, Atlanta, GA.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 3A-07, Tel. 301-496-7550	Feb. 24-26	8:00	Capitol Holiday Inn, Washington, DC.
Social Sciences & Populaiton, Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	Feb. 11-13	9:00	Quality Inn, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 303A, Tel. 301-496-7506	Feb. 29-Mar. 1	8:00	Hyatt Regency Hotel, Bethesda, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 319B, Tel. 301-496-7771	Feb. 25-26	8:30	Ramada Inn, Bethesda, MD.
Toxicology, Dr. Alfred Marozzi, Rm. 205, Tel. 301-496-7570	Mar. 9-11	8:00	Omni Europe Hotel, Chapel Hill, NC.
Tropical Medicine & Parasitology, Dr. Jean Hickman, Rm. 334, Tel. 301-496-1190	Feb. 15-17	8:30	Holiday Inn, Georgetown, DC.
Virology, Dr. Bruce Maurer, Rm. 309, Tel. 301-496-7605	Feb. 26-28	8:30	Quail Ridge Inn, Taos, NM.
Visual Sciences A-1, Dr. Luigi Giacometti, Rm. 207, Tel. 301-496-7000	Feb. 3-5	9:00	St. Francis Hotel, Sante Fe, NM.
Visual Sciences A-2, Dr. Gilbert Meier, Rm. 439A, Tel. 301-496-7795	Feb. 17-19	8:30	Howard Johnson Plaza Hotel, Washington, DC.
Visual Sciences B, Dr. Earl Fisher, Jr., Rm. 325, Tel. 301-496-7251	Feb. 24-26	8:30	Holiday Inn, Bethesda, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-583 Filed 1-12-88; 8:45 am]

BILLING CODE 4140-01-M

National Center for Nursing Research Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Center for Nursing Research Advisory Council, National Center for Nursing Research, February 16–17, 1988, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on February 16, from 9 a.m. to recess and on February 17 from 8:30 a.m. to 9:30 a.m. Agenda items to be discussed will include the NCNR Director's Report, NCNR Advisory Council Biennial Report to Congress, percentile vs. priority score ranking, a tour of NIH's Clinical Center, models of collaboration within NIH, National Nursing Research Agenda, report of the meeting of the Advisory Committee to the Director, NIH, renewal of statement of understanding, and discussion of ethical statement from June 1987 meeting.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. section 10(d)) of Pub. L. 92–463, the meeting will be closed to the public on February 17 at 9:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be open on February 17, immediately following the review of applications, if any policy issues are raised which need further discussion.

Mrs. Ruth K. Aladj, Executive Secretary, National Center for Nursing Research Advisory Council, National Institutes of Health, Building 31A, Room 1E10, Bethesda, Maryland 20892, (301) 496–0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: December 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–575 Filed 1–12–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, February 18–19, 1988, at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 8, Bethesda, Maryland 20892.

The entire meeting, from 8:30 a.m. on February 18 to adjournment on February 19, will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases' programs and Committee plans for fiscal year 1988. Attendance by the public will be limited to the space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: January 4, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–576 Filed 1–12–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, February 19, 1988. The meeting will be held at the National Institutes of Health, Building 31, Conference Room 7, C–Wing, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9 a.m. to 5 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A21, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Clarice D. Reid, Chief, Sickle Cell Disease Branch, Division of Blood Diseases and Resources, NHLBI, Federal Building, Room 508, (301) 496–6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839 Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 4, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–577 Filed 1–12–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Commitee, National Heart, Lung, and Blood Institute, National Institutes of Health, on February 21–23, 1988, at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

This meeting will be open to the public on February 21, from 7 p.m. to approximately 9:30 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b (c)(4) and 552b (c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 22 from approximately 8 a.m. until adjournment on February 23, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Kathryn Ballard, Executive Secretary, NHLBI, Westwood Building, Room 550, Bethesda, Maryland 20892, (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–578 Filed 1–12–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; National Cholesterol Education Program Coordinating Committee; Meeting

Notice is hereby given of the meeting of the National Cholesterol Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, on February 19, 1988, from 9 a.m. to 3 p.m., at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814, (301) 897–9400.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Cholesterol Education Program. Attendance by the public will be limited to space available.

For the agenda, list of participants, and meeting summary, contact: Dr. James I. Cleeman, Coordinator, National Cholesterol Education Program, Office of Prevention, Education, and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, C-200, Bethesda, Maryland 20892, (301) 496-0554.

Dated: January 7, 1988.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 88-579 Filed 1-12-88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, January 19-20, 1988, which was published in the **Federal Register** on Monday, December 7, 1987 (52 FR 46420).

The entire meeting was previously scheduled to be open to the public. The meeting will now be closed on January 20 for approximately one hour beginning at 8:30 a.m., and on January 20 for approximately two hours beginning at 12 noon, in accordance with the provisions set forth in section 552b(c)(6) of Title 5 U.S.C. The closed portion involves the consideration of personnel qualifications and performance, the competence of individudal investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: January 7, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-580 Filed 1-12-88; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Advisory Committee; Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Recombinant DNA Advisory Committee, February 1, 1988, National Institutes of Health, Bethesda, Maryland, which was published in the **Federal Register** on December 23, 1987 (52 FR 48660).

The meeting was cancelled due to lack of a sufficient number of agenda items.

Dated: January 7, 1988.

Betty J. Beveridge

Committee Management Officer, NIH.

[FR Doc. 88-581 Filed 1-12-88; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Advisory Committee, Working Group on International Projects; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on International Projects at the National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892, on February 1, 1988, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss applicability of NIH Guidelines to projects carried out abroad. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee Working Group on International Projects, Office of Recombinant DNA Activities, 12441 Parklawn Drive, Suite 58, Rockville, Maryland 20852, telephone (301) 770-0131.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual Programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Date: January 7, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-582 Filed 1-12-88; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Committee on Vital and Health Statistics Subcommittee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long Term Care Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will meet on Tuesday, January 19, 1988, from 2:00 p.m. to 5:00 p.m. and Wednesday, January 20, 1988, from 9:00 a.m. to 4:00 p.m. in Room 337A of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

The Subcommittee will conduct a review of functional assessment approaches, and will consider a nursing service classification and availability of Long-Term Care Data Sets.

Further information regarding the Subcommittee may be obtained by contacting Richard Havlik, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7050.

Dated: December 17, 1987.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 88-524 Filed 1-12-88; 8:45 am]

BILLING CODE 4160-17-M

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, February 3, 1988 from 1:00 p.m. to 5:00 p.m., Thursday, February 4, 1988 from 9:00 a.m. to 5:00 p.m., and Friday, February 5, 1988 from 9:00 a.m. to 1:30 p.m. in Room 703A of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

The Committee will receive reports from each of its Subcommittees and may address new business as appropriate.

Further information regarding this meeting of the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Date: December 17, 1987.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 88–525 Filed 1–12–88; 8:45 am]

BILLING CODE 4160–17–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–267

Certain Minoxidil Powder, Salts and Compositions for Use in Hair Treatment; Commission Decision Not To Review Initial Determination Terminating One Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Termination of respondent Health International Laboratories, Inc. on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) terminating Health International Laboratories, Inc. as a respondent in the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–3395.

SUPPLEMENTARY INFORMATION: On December 11, 1987, the presiding administrative law judge issued an ID (Order No. 44) granting the joint motion of complainant The Upjohn Company and respondent Health International Laboratories, Inc. to terminate the investigation with respect to Health International Laboratories on the basis of a settlement agreement. No petitions for review of the ID and no government agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: January 5, 1988.

[FR Doc. 88–569 Filed 1–12–88; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–270]

Certain Noncontact Tonometers; Termination of Investigation as to a Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination granting a joint motion to terminate the investigation as to respondent P.A. Consulting Services, Ltd. ("P.A.") on the basis of a settlement agreement.

SUMMARY: On November 23, 1987, complainant Cambridge Instruments, Inc. and respondent P.A. filed a joint motion to terminate this investigation as to P.A. on the basis of a settlement agreement. On December 8, 1987, the presiding administrative law judge issued an initial determination ("ID") granting the joint motion to terminate the investigation. The Commission published a notice of the ID on December 16, 1987 (52 FR 47766). The Commission determined not to review the ID.

FOR FURTHER INFORMATION CONTACT: Timothy M. Reif, Esq., Office of the General Counsel, U.S. International Trade Commission, Washington, DC 20436, telephone 202–523–5937.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1000.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: January 5, 1988.

[FR Doc. 88–568 Filed 1–12–88; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31200]

Chemical Lime, Inc.; Acquisition and Operation Exemption; Rail Lines of CSX Transportation, Inc.

Chemical Lime, Inc. (CLI), a noncarrier has filed a notice of exemption to acquire and operate approximately 45.26 miles of railroad extending from milepost SR 838.26 to milepost SR 793.0, between Sulphur Springs and Shands, FL from CSX Transportation, Inc. (CSX). The agreement for transfer of the line between CLI and CSX is to be consummated on or before December 31, 1987.

Any comments must be filed with the Commission and served on David H. Baker, Holland & Knight, Suite 900, 888 17th Street, NW., Washington, DC 20006.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: December 28, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–408 Filed 1–12–88; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31185]

Leadville-Climax Shortline Railway Co.; Acquisition and Operation Exemption; Rail Lines of Burlington Northern Railroad Co.

Leadville-Climax Shortline Railway Company (LCSR), a noncarrier, has filed

a notice of exemption to acquire and operate approximately 13.74 miles of railroad of Burlington Northern Railroad Company (BN), located in Colorado. The line extends from BN milepost 137.47 at Climax, CO, to BN milepost 151.21 at Leadville, CO. The agreement for transfer of the lines between LCSR and BN was to be consummated on or before January 1, 1988.

This transaction will also involve the issuance of securities by LCSR, which will be a class III carrier. The issuance of these securities is an exempt transaction under 49 CFR 1175.1.

Any comments must be filed with the Commission and served on Stephanie Shaw Olsen, Leadville-Climax Shortline Railway Company, Leadville, CO 80461.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: December 28, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-409 Filed 1-12-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 228X)]

CSX Transportation, Inc.; Abandonment Exemption in Ross County, OH

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 9.55-mile line of railroad between valuation station 4631+63 (milepost 87.81) near Musselman and valuation station 5135+50 (milepost 97.36) near Chillicothe, in Ross County, OH.

Applicant has certified that (1) no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on February 12, 1988 (unless stayed pending reconsideration). Petitions to stay must be filed by January 22, 1988 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by February 1, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Lawrence H. Richmond, CSX Transportation, 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA) and will serve it on all parties by January 18, 1988. Other interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE, at (202) 275-7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 7, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-653 Filed 1-12-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-6978] et al.

Proposed Exemptions; Central States, Southeast and Southwest Areas Pension Fund et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Central States, Southeast and Southwest Areas Pension Fund (the Plan)

Located in Chicago, Illinois

[Exemption Application No. D-6978]

Proposed Amendments to Exemption

The Department is proposing to modify a portion of Prohibited Transaction Exemption (PTE) 85-211 (50 FR 43222, December 30, 1985) issued to Morgan Stanley Group Inc. (MSG), the Named Fiduciary (the Named Fiduciary) on behalf of the Plan. Authority to grant the proposed amendments to the exemption is given the Department under section 408(a) of the Act, section 4975(c)(2) of the Code and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

If the proposed amendments are adopted, paragraph (A) of PTE 85-211 would be restated so that the restrictions of sections 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply until January 21, 1990 to the adjustment, disposition, and/or continuation by investment managers of any pre-existing loan, lease, service agreement, or other arrangement, or the holding by the Plan of any pre-existing employer security or real property [as described in Part VIII of PTE 77-11 (42 FR 54041, October 7, 1977) and PTE 84-114 (49 FR 30609, July 31, 1984)], but only to the extent that PTE 84-14 (49 FR 9494, March 13, 1984) is not applicable with respect to such transactions by reason of any of the following: (1) The assets of the Plan represent more than 20 percent of the total client assets under the management of the investment manager at the time of the transaction; (2) the investment manager does not satisfy the definition contained in Part V(a)(4) of PTE 84-14; or (3) the transaction is between the Plan and the Central States, Southeast and Southwest Areas Health and Welfare Fund (the Welfare Plan), or the transaction is between the Plan and a person which is a party in interest and at the time of the transaction [as defined in Part V(i) of PTE 84-14] either such party in interest or its "affiliate" [as defined in Part V(c) of PTE 84-14] has the authority or, during the preceding one year, has exercised the authority: (a) To appoint or terminate the Named Fiduciary of the Plan or (b) to otherwise alter the terms under which a person serves as the Named Fiduciary of the Plan.

Effective Date: If granted, the proposed amendments would be effective January 1, 1985. They will expire on January 21, 1992.

Summary of Facts and Representations

1. *The Plan.* The Plan is a multiemployer defined benefit pension plan established in 1955 by an Agreement and Declaration of Trust between various local unions affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and employers having collective bargaining agreements with those unions. The Plan is jointly administered by eight trustees (the Trustees), an equal number of whom are appointed indirectly by participating unions and employers in compliance with section 302(c)(5) of the Labor Management Relations Act of 1947, as amended.

More than 10,000 employers currently make contributions to the Plan under collective bargaining agreements involving approximately 300 local union organizations. The number of active and retired participants and beneficiaries in the Plan as of December 31, 1985 totaled approximagely 459,000. As of March 31, 1987, the total of the Plan's assets under control of MSG was valued at approximately $8.16 billion.

2. *The 1977 Agreements.* In 1977, pursuant to an agreement with the Department and the Internal Revenue Service (the Service), the Trustees entered into a series of contracts with certain independent investment managers, delegating to them direct control over the Plan's assets. By agreements dated June 30, 1977, the Trustees appointed The Equitable Life Assurance Society of the United States (Equitable) to serve as the Named Fiduciary of the Plan and as an investment manager for 25 percent of the Plan's securities-related assets. The Trustees also appointed three additional investment managers to manage the Plan's remaining securities-related assets. In addition, Equitable and Victor Palmieri and Company, Incorporated (VPCO) were appointed to manage the Plan's real estate-related assets.

As the Named Fiduciary, Equitable was given exclusive responsibility to develop investment policies and objectives for the Plan; allocate the assets among different types of investments and investment managers; and appoint, remove and monitor the performance of the securities-related investment managers. The Trustees retained responsibility for monitoring the performance of Equitable both as the Named Fiduciary and as investment manager for the securities-related and real estate-related assets. Both Equitable and the Trustees were empowered to monitor the performance of VPCO.

3. *The Consent Decree (the Consent Decree).* To resolve outstanding litigation against the Plan and the Trustees, certain negotiations between the Department and the Plan culminated in the adoption of the Consent Decree which was entered on September 22, 1982 by the United States District Court for the Northern District of Illinois, Eastern Divison (the Court). The Consent Decree requires that all assets of the Plan be subject to the exclusive authority and control of the Named Fiduciary. The Consent Decree gives the Named Fiduciary exclusive authority to manage all present and future investments of the Plan (other than assets held in the Benefits and Administration Account) or to delegate this authority to such investment managers and real estate managers as it determines are necessary to manage the Plan's assets. The Consent Decree provides that the Trustees retain the responsibility to monitor the performance of the Named Fiduciary. The Trustees are further empowered by the Consent Decree to terminate the Named Fiduciary without cause upon six months' written notice.[1]

To further the objectives of the Consent Decree, the Department and the Plan agreed to the appointment by the Court of an independent special counsel (the Independent Special Counsel). The Court has appointed Mr. William B. Saxbe (Mr. Saxbe), former Attorney General of the United States as the Independent Special Counsel. The Independent Special Counsel is required to devote special attention to compliance by all Plan fiduciaries with the fiduciary responsibility provisions of the Act and is authorized to monitor and review the activities of the Trustees, the Named Fiduciary, the investment managers and other parties. The Independent Special Counsel is also required to file written quarterly reports with the Court regarding matters within his jurisdiction.

[1] The Named Fiduciary may also be removed by the Court for good cause shown after 60 days' notice is given to the Named Fiduciary and the Department. However, the removal of the Named Fiduciary, with or without cause, may only occur concurrent with Court approval of the appointment of a similarly-qualified successor Named Fiduciary.

5. *Appointment of MSG as the Named Fiduciary.* On November 16, 1983, the Trustees adopted a resolution to appoint MSG as the Named Fiduciary of the Plan and to succeed Equitable, subject to the Court's approval. On November 17, 1983, the Trustees implemented the resolution by entering into a contract with MSG (formerly known as Morgan Stanley, Inc.), thereby appointing MSG as the Named Fiduciary, effective January 20, 1984 (the 1983 Named Fiduciary Agreement). Under the 1983 Named Fiduciary Agreement, MSG was given exclusive authority to manage and control the assets of the Plan (except for assets held in the Benefits and Administration Account).

After appropriate notice to the Department, on January 17, 1984, the Court granted the motion of the Plan for approval of MSG as the Named Fiduciary. In accordance with the order, MSG assumed its responsibilities as the Named Fiduciary on January 20, 1984. MSG also entered into investment management agreements with the investment managers who were already serving in such capacities. The agreements, which were effective as of January 20, 1984, required MSG to monitor the activities of all investment managers. MSG's conduct in such regard continued to be subject to the review of the Trustees, the Independent Special Counsel, the Court and the Department.

5. *Existing Prohibited Transaction Exemptions.* In 1977, the Department and the Service issued PTE 77–11, a nine-part exemption, that was designed to resolve a number of questions which arose, or which were they likely to arise, with respect to prohibited transactions involving the management of the Plan's assets under the 1977 Named Fiduciary Agreement and the various individual investment management agreements. In particular, Part VIII of PTE 77–11 provided exemptive relief for the adjustment and/or continuation by investment managers of any pre-existing loan, lease, service agreement or other arrangement with a party in interest, or the continued holding by the Plan of any pre-existing employer security or employer real property as those terms are defined in sections 407(d)(1) and (d)(2) of the Act. The exemption relieved the investment managers of the burden of investigating whether previously entered transactions constituted prohibited transactions, and allowed such managers to make investment decisions on behalf of the Plan. Part VIII of PTE 77–11 was also intended to cover the "working-out" of a loan with a party in interest.

On July 31, 1984, the Department issued PTE 84–114 which was effective January 20, 1984, and which extended for up to one year several parts of PTE 77–11, including Part VIII. This extension permitted the Plan's investment managers to continue to manage the Plan's assets without a disruption in the continuity of advise and services while MSG, as the new Named Fiduciary, performed in-depth reviews of the Plan's investments and investment policy and the managers' performance. PTE 84–114 also required MSG to have all investment managers and real estate investment managers document, in monthly reports to MSG and the Trustees, all transactions occuring in the prior month with parties in interest that involved certain real estate assets of the Plan. Because PTE 84–114 would soon expire, MSG requested a further, five year extension of Parts V, VIII and IX of PTE 77–11. On December 30, 1985, the Department issued PTE 85–211, effective as of January 1, 1985. However, PTE 85–211 was limited in its application, and may be relied upon to the extent that PTE 84–14 is not applicable solely by reason of an investment manager's failure to satisfy the assets under management test or the equity requirements of PTE 84–14. PTE 85–211 also contained an identical reporting and disclosure provision.

6. *Transactions and Rationale for Amendments to Existing Exemptive Relief.* MSG is concerned that PTE 84–14 may not be applicable to exempt transactions between the Plan and the Central Conference of Teamsters (the Union), it locals or other employee benefit plans sponsored in whole or in part by the Union, because the Union may be considered to have the indirect power to terminate MSG which, in turn, has the power to terminate the investment managers.[2] If PTE 84–14 is inapplicable for this reason, MSG believes PTE 85–211 would also be inapplicable. As a result, MSG represents that continuing transactions (such as loans or leases) with the Union or its locals which were exempted by Part VIII of PTE 77–11, may have become prohibited transactions as of January 1, 1985, when PTE 84–114 was superseded by PTE 85–211.[3]

MSG has identified three investments for which this concern exists:

(a) Certain continuing leases of office space (the Leases) between the Plan as lessor the Union as lessee and between the Plan as lessor and the Welfare Plan as lessee [4] in the International Tower Building, Chicago, Illinois. MSG explains that Eastdil Advisers, Inc., the Plan's investment manager for the Leases, is of the opinion that the Plan has always received fair market value rent since the inception of such Leases.

(b) A loan by the Plan (the Kansas City Loan) to the Teamsters' and Truck Drivers' Building Association (the Borrower) which consists of a number of Union locals in the Kansas-Missouri area. MSG states that the Kansas City Loan is still outstanding.

(c) Two loans by the Plan (the Ohio Loans) to the Central Ohio Teamsters Building Co., Inc., a company formed by a Union local. According to MSG, the Ohio Loans were sold to an unrelated party on March 21, 1986.

MSG believes these investments may be regarded as prohibited transactions. In the case of the Leases and the Kansas City Loan, MSG explains that such investments were no longer subject to a prohibited transaction exemption after January 1, 1985. Similarly, with respect to the Ohio Loans, MSG represents that such Loans were not covered by an administrative exemption from January 1, 1985 until the date of their sale to the unrelated party.

MSG submits that an unusual problem is presented by the potential disposition of the Kansas City Loan. MSG states that effects to market the Kansas City Loan by its investment manager have been unsuccessful primarily due to the unattractness of the loan terms and the poor creditworthiness of the Borrower. Although the Borrower has offered to buy-out or work-out the Kansas City Loan at an all cash, discounted price (which exceeds that offered by any other potential bidder), and the investment manager believes that a sale of the Kansas City Loan to the Borrower would be in the best interests of the Plan, MSG believes a sale of such loan to the Borrower may constitute a

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[2] MSG explains that the circumstances of the Plan, including the independence of its investment managers and the oversight of their activities are unique.

[3] Although PTE 85–211 is effective from January 1, 1985 until January 21, 1990, MSG represents that it has considered the amount of time that will be required to terminate the transactions that are subject to the amendments and it believes a longer exemptive period is necessary. As described below, the transactions include the lease of office space to the Union and the Welfare Plan. The Union and the Welfare Plan will move to new quarters, and it is anticipated that such move will occur by 1990. However, MSG represents that construction delays or other not unusual problems may delay the move past January 21, 1990, and has therefore requested that the effective date for the transactions subject to the amendments be extended to January 21, 1992.

[4] The Welfare Plan is a party in interest with respect to Plan because it is a contributing employer which respect to the Plan within the meaning of the section 3(14)(C) of the Act.

prohibited transaction that is not covered by either PTE 84–14 or PTE 85–211.

7. *Requested Amendments to Exemption.* MSG requests that PTE 85–211 be modified and made retroactively effective as of January 1, 1985 by amending the third paragraph thereof to read as follows (changes indicated):

In addition, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by the reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply, until January 21, 1992 to the following:

(A) the adjustment, *disposition,* and/or continuation by investment managers of any pre-existing loan, lease, service agreement, or other arrangement, or the holding by the Plan of any pre-existing employer security or real property (as described in Part VIII of PTE 77–11 and PTE 84–114), but only to the extent that PTE 84–14 is not applicable with respect to such transactions by reason of *any of the following:* (1) the assets of the Plan represent more than 20 percent of the total client assets under the management of the investment manager at the time of the transaction; (2) the investment manager does not satisfy the definition contained in Part V(a)(4) of PTE 84–14; *or (3) the transaction is between the Plan and the Welfare Plan, or the transaction is between the Plan and a person which is a party in interest and at the time of the transaction [as defined in Part V(i) of PTE 84–14] either such party in interest or its "affiliate" [as defined in Part V(c) of PTE 84–14] has the authority or, during the preceding one year, has exercised the authority: (a) to appoint or terminate the Named Fiduciary of the Plan or (b) to otherwise alter the terms under which a person serves as the Named Fiduciary of the Plan; and* * * *

MSG states that the insertion of the word "disposition" in new subparagraph (A) is intended to clarify that no interpretation of "adjustment" of a pre-existing "arrangement" would exclude from the coverage of the exemption a negotiated termination of a pre-existing "arrangement" with a party in interest, which termination involves a disposition to the party in interest. MSG explains that this change is intended to include, for example, the sale of the Kansas City Loan to the Borrower.

MSG also represents that the addition of clause (3) to subparagraph (A) would bring within the scope of PTE 85–211 certain additional transactions (as described above) that may not be covered by PTE 84–14. MSG believes that such pre-existing transactions should not lose exemptive relief as of January 1, 1985, the effective date of PTE 85–211. MSG thinks that such an effect would be detrimental to the interests of the participants and beneficiaries of the Plan. Therefore, MSG requests the addition of new clause (3) in subparagraph (A), which would have the effect of clarifying that PTE 85–211 applies to these pre-existing transactions.

MSG states that the reference in new clause (3) to transactions between the Plan and the Welfare Plan is intended to cover the lessor-lessee relationship between such plans. MSG also states that the remainder of new clause (3) is meant to describe a class of persons who may have authority over the Trustees of the Plan such that, they might be thought to have indirect control over MSG or even the Plan's investment managers. While such class of persons might be thought to be very broad, MSG explains that the effect of the new language would be to clairfy that exemptive relief is restored to a finite number of pre-existing, previously exempt transactions.

MSG represents that any proposal to adjust, dispose of or continue any such investment will be brought to its immediate attention by the investment manager having responsibility over the investment. MSG says it has no difficulty in making this representation because at present, due to the sensitivity surrounding such loans and leases to the Welfare Plan and other persons associated with the Union, it requires that investment managers immediately inform MSG of any proposal to adjust, dispose of or contiue any such investment. MSG, in turn, summarizes such proposals in monthly reports delivered to the Trustees at their monthly meeting with MSG. Copies of the reports are also delivered to the Independent Special Counsel. Moreover, the Independent Special Counsel (and/or his representatives) typically attends the monthly Trustees' meeting. If the Independent Special Counsel were to perceive any material problem in connection with any proposal, MSG resumes Mr. Saxbe would bring this matter to the attention of the Court in his quarterly report filed with the Court. Thus, MSG states it has already established a monitoring system whereby it and Mr. Saxbe are kept informed of any transactions which might fall within the purview of Part VIII of PTE 77–11 and PTE 84–114.

MSG asserts further that if, in the course of undertaking its monitoring function it were to become aware of potential harm to the Plan in any of the transactions under discussion, or of an attempt for it or an investment manager to become unduly influenced in the negotiation of such transactions, it would have the responsibility to make certain such harm would not occur and that such influence would be resisted. Accordingly, MSG states that it would take such reasonable and affirmative steps as were appropriate under the circumstances. Such steps might include refusing to take certain recommended actions; informing the Department or the Court of any wrongdoing; or, initiating litigation on behalf of the Plan.

MSG also states that the investment managers it appoints may take similar actions in order to avoid conflicts of interest or other prohibited transactions with respect to the above described investments. Depending upon the circumstances, MSG represents that the investment manager may refuse to undertake suggested actions; apprise MSG, the Independent Special Counsel, the Department or the Court of any wrongdoing; or commence litigation in the name of the Plan.

8. *Views of the Independent Special Counsel.* By letter dated February 16, 1987, Mr. Saxbe states that it is his understanding that the purpose of the requested relief is to provide that the exemption granted to MSG by PTE 84–114 and, as essentially extended through 1990 by PTE 85–211, will apply to a finite number of pre-existing, previously exempt transactions, which had been covered by PTE 84–114 and that might not be covered by PTE 85–211 or any outstanding class exemption. Because of the continuing, unique nature of the Plan's assets, the magnitude of those assests and the very large number of individuals who are parties in interest to the Plan, Mr. Saxbe represents that he is still of the view that the relief granted in PTE 84–114 and PTE 85–211 was in the best interest of the Plan and its participants and beneficiaries. He also states that he believes the proposed amendments to a portion of PTE 85–211 would be in the best interest of the Plan and its participants and beneficiaries.

9. In summary, it is represented that the proposed amendments to PTE 85–211 satisfy the statutory requirements of section 408(a) of the Act because: (a) They ensure the continued, effective management of the Plan's assets; (b) they provide relief for a few, certain pre-existing transactions that had previously been exempt but might not be covered by PTE 84–14 due to the identities of the parties involved; (c) the amendments to PTE 85–211 would be subject to the provisions relating to reporting and disclosure that were previously imposed in PTE 84–114 and PTE 85–211 for identical relief; (d) MSG will continue to be responsible for monitoring the activities of investment managers, and its conduct will continue to be subject to review by the Trustees, the Independent Special Counsel, the Court and the Department; and (e) of the Independent Special Counsel believes the proposed

amendments to PTE 85–211 are in the best interest of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Karl R. Moedl, M.D., P.A. Profit Sharing Retirement Plan (the Profit Sharing Plan) and Karl R. Moedl, P.A. Pension Retirement Plan (the Pension Plan; collectively, the Plans) Located in Albuquerque, New Mexico

[Application No. D–7168 and D–7169]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase of certain real property (the Property) by the Plans from Karl R. Moedl, M.D. and Joan S. Moedl, husband and wife, and disqualified persons with respect to the Plans, provided that the Plans pay no more than the fair market value for the Property as of the date of purchase.[5]

Summary of Facts and Representations

1. The Plans are defined contribution plans with two participants, Karl R. Moedl, M.D. and his wife, Joan S. Moedl (the Moedls). As of September 30, 1987, Karl R. Moedl, M.D. had an account balance of $484,334.37 in the Profit Sharing Plan and account balance of $142,977.00 in the Pension Plan. As of the same date, September 30, 1987, Joan S. Moedl had an account balance of $55,203.63 in the Profit Sharing Plan and an account balance of $13,673.00 in the Pension Plan. Karl R. Moedl, M.D., who is the sole shareholder of the Employer, is the trustee of the Plans. The Moedls, who are the applicants, represent that all former participants in the Plans have received their vested and accrued benefits from the Plans at the time of terminating their employment. The applicants also represent that that Moedls will be the only participants at risk with respect to the Property and, at any time other persons become participants, their segregated accounts in the Plan will not be involved with the Property.

2. The Property is a condominium with six rooms and three baths, units number C–203, located on Lua Kula Street, Waikbloa Villas I and II, Kamuela, Hawaii 96743. The Property has been appraised, as of July 15, 1987, to have a fair market value of $158,000, by Mr. Bill M. Brodbeck II, M.A.I. of Sevco Real Estate Appraisers, Kailua-Kona, Hawaii, an independent appriaser with no affiliations with the Plans or the Moedls.

3. The Moedls have offered to sell the Property to the Plans for cash with an undivided 78 percent interest in the Property being acquired by the Profit Sharing Plan for $117,000 and an undivided 22 percent interest in the Property being acquired by the Pension Plan for $33,000. Neither sales commissions nor fees of any kind will be paid by the Plans to any person in connection with the sale of the Property. The division of the interests in the Property, as proposed in the purchase transaction, will involve less than 25 percent of the total assets of the Plans and their respective account balances. the applicants also represent that the Plan will lease the Property to persons who are not parties in interest or disqualified persons with respect to the Plan and at no time will the Moedls rent or otherwise use the Property themselves.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because (a) The purchase price of the Property will be approximately 21.68 percent of the Plans' total assets and the proportionate purchase prices of the Property will be 21.69 percent of the Profit Sharing Plan's assets and 21 percent of the Pension Plan's assets; (b) the Plan will be paying less for the Property than the fair market value as determined by an independent appraiser; and (c) the Moedls are the only participants to be affected by the proposed transaction and they desire that the transaction be consummated.

Notice to Interested Persons: Since Karl R. Moedl, M.D. is the sole shareholder of the Employer and he and his wife are the sole participants of the Plans, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requested for a public hearing are due 30 days after publication of this notice in the Federal Register.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

John W. Dwyer, P.C. Pension Plan and John W. Dwyer, P.C. Profit Sharing Plan (the Plans) Located in Bismarck, North Dakota

[Application Nos. D–7224 and D–7225]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).[6] If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale for cash by the Plans of certain real property (the Real Property) to John W. Dwyer, Sr., the father of the sole shareholder of the Plans' sponsor and a disqualified person with respect to the Plans, provided that the price paid be no less than the greater of the fair market value of the Real Property on the date of sale or the total outlay by the Plans in connection with the acquisition and holding of the Real Property to the date of sale.

Summary of Facts and Representations

1. The Plans are a money purchase pension plan (the Pension Plan) and a profit sharing plan (the Profit Sharing Plan) whose sole participant is John W. Dwyer (Mr. Dwyer). The Plans' sponsor is John W. Dwyer, P.C., which is engaged in the practice of lobbying and administrative law. As of November 30, 1986, the Pension Plan had assets of $93,344 and the Profit Sharing Plan has assets of $140,018.

2. In December, 1986, the Plans purchased the Real Property, 440 acres of unimproved farm land located in McKenzie County, North Dakota, for $114,000 in cash, from the estate of Dean Jacobson, an unrelated third party. The Pension Plan owns 40% of the Real Property, and Profit Sharing Plan owns 60%. The purchase was made to earn rental income for the Plans. However, the applicant represents that farmland values in McKenzie County have been decreasing rapidly, and the rent on the Real Property has not offset the decrease in the value of the Real

[5] Since Karl R. Moedl, M.D. is the sole shareholder of Karl R. Moedl, M.D., P.A. (the Employer) and, along with his wife, Joan S. Moedl, are the only particiapants in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–(3)b. However there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[6] The applicant represents that John W. Dwyer, Jr., is the sole shareholder of John W. Dwyer, P.C., the Plans' sponsor, and is the Plans' sole participant. Hence, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Property. At the present time the Real Property is leased to Mr. Dwyer's brother for approximately $8,400 per annum. Property tax on the Real Property amounts to approximately $500 per annum.

3. On May 11, 1987, Henry Skjelvik, a real estate broker doing business as Skjelvik Agency in Watford City, North Dakota, estimated the fair market value of the Real Property at $79,290. On May 22, 1987, Deborah Kahl, an appraiser with Badlands Appraisal Service in Watford City, North Dakota, estimated the fair market value of the Real Property at $81,400.

4. Accordingly, the applicant proposes that the Plans sell the Real Property for cash to John W. Dwyer, Sr., Mr. Dwyer's father, for the greater of $116,000, or the total expenditure by the Plans in connection with their acquisition and holding of the Real Property, including, but not limited to the price originally paid by the Plans, legal expenses, property tax, and insurance, provided that the sale price is no less than the fair market value of the Real Property on the date of sale.

5. The applicant agrees to file Form 5330 and to pay all applicable excise tax due in connection with the existing lease of the Real Property by Mr. Dwyer's brother within sixty days of the publication in the Federal Register of an exemption for the sale of the Real Property.

6. In summary, the applicant represents that the proposed transaction will satisfy the terms and conditions of section 4975(c)(2) of the Code because: (a) The Real Property will be sold for cash for the greater of $116,000 or the total expenditure by the Plans in connection with their acquisition and holding of the Real Property, but in no case less than the fair market value of the Real Property as of the date of sale; (b) the proposed sale represents a one-time transaction for cash which can be easily verified; (c) the proposed sale will not require the payment of commissions, fees, or other costs by the Plans; (d) the proposed transaction will enable the Plans to dispose of an asset which is dropping in value and which is not producing income sufficient to offset its depreciating value; and (e) the applicant believes that the proposed sale is in the best interest of the Plans.

Notice to interested persons: Because Mr. Dwyer is the only participant in the Plans; it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 401(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of January 1988.

Robert J. Doyle,

Acting Associate Director, Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-573 Filed 1-12-88; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 88-1; Exemption Application No. D-6692 et al.]

Grant of Individual Exemptions; Jim W. Miller Construction, Inc. Profit Sharing Trust et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Jim W. Miller Construction Co., Inc. Profit Sharing Trust (the Plan) Located in St. Cloud, Minnesota

[Prohibited Transaction Exemption 88–1; Exemption Application NO. D–6692]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sales of certain parcels of real property located in St. Cloud, Minnesota, by the Plan to Jim W. Miller Incorporated and Miller Companies, Inc. parties in interest with respect to the Plan, provided that all the terms of the proposed transactions are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party on the date the transactions are consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 17, 1987 at 52 FR 27082.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

John W. Truban, P.C. Pension Plan; John W. Truban, P.C. Profit Sharing Plan (the Plans) Located in Winchester, Virginia

[Prohibited Transaction Exemption 88–2; Exemption Application Nos. D–6842 and D–6843]

Exemption

The restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sales of certain real property by the Plans to John W. Truban, a party in interest with respect to the Plans, for a sales price of $35,000 provided all the terms of the proposed sale are as favorable to the Plans as those obtainable by the Plans in an arm's-length transaction with an unrelated party on the date the transactions are consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 17, 1987 at 52 FR 27083.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Children's Clinic Profit Sharing Trust (the Plan) Located in St. Louis, Missouri

[Prohibited Transaction Exemption 88–3; Exemption Application No. D–6908]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of $100,000 by the Plan to Baby Docs, Ltd., a party in interest with respect to the Plan, provided that the terms and conditions of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party on the date the loan is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 1987 at 52 FR 39722.

For further Information Contact: Mr. Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

W.J. Collins, Inc. Money Purchase Pension Plan (the Plan) Located in Walnut Creek, CA

[Prohibited Transaction Exemption 88–4; Exemption Application No. D–7031]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the contribution, on December 12, 1985, to the Plan of a 5.416 percent interest (the Interest) in certain unimproved real property by Warren J. Collins, Inc. (the Employer), a disqualified person with respect to the Plan, provided: (a) The Interest was valued for contribution purposes at no greater than its fair market value at the time of the contribution; and (b) the Employer's Federal tax deduction taken for making the contribution was not greater than the value of the Interest at the time it was contributed to the Plan.[1]

[1] Because Mr. Warren J. Collins is the sole owner of the Employer that sponsors the Plan as well as the sole participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 1987 at 52 FR 39725.

Effective Date: This exemption is effective December 12, 1985.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Earl R. Waddell & Sons, Inc. Profit Sharing Plan and Trust (the Plan) Located in Fort Worth, TX

[Prohibited Transaction Exemption 88–5; Exemption Application No. D–7058]

Exemption

The restrictions of section 406(a), 406 (b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective January 17, 1986, to the past cash sale, on January 17, 1986, of a $100,000 par value Federal National Mortgage Association mortgage backed trust certificate (the Bond) by Earl R. Waddell & Sons, Inc. to the Plan, provided that the Plan paid no more than the Bond's fair market value as of the date of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 25, 1987 at 52 FR 32084.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Centre Radiology, P.A. Profit Sharing Plan and the Centre Radiology, P.A. Money Purchase Pension Plan (together, the Plans) Located in Cumberland, Maryland

[Prohibited Transaction Exemption 88–6; Exemption Application No. D–7209]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975C(1) (A) through (E) of the Code, shall not apply to (1) the proposed loan of $525,000 (the Loan) by the individually directed accounts of Drs. Emmett W. Cox, Daniel F. Jackson, and Robert F. Miller in the Plans to Radeq, Inc. (Radeq), a party in interest with respect to the Plans; and (2) the personal guarantees of the Loan by the common stockholders of Radeq, some of whom

are parties in interest with respect to the Plans, provided that the terms of the Loan are no less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 6, 1987 at 52 FR 42745.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Federal Paper Board Salaried Employees' Pension Plan; Federal Paper Board Hourly-Wage Employees' Pension Plan; and Federal Paper Board Co., Inc. Pension Plan for Hourly Employees of the Paper Division-Carolina Operations (the Plans) Located in Montvale, New Jersey

[Prohibited Transaction Exemption 88–7; Exemption Application No. D–7268]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the September 14, 1987 contribution to the Plans of certain real property (the Property) by the Federal Paper Board Company, Inc. (the Employer), the Plans' sponsor, provided the Property was valued at no greater than its fair market value at the time of contribution.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 1987 at 53 FR 39727.

Effective Date: This exemption is effective September 14, 1987.

Written Comments and Hearing Requests: The Department received no requests for a public hearing. The only written comment was submitted by the Employer. The Employer informed the Department that the subject transaction was entered into on September 14, 1987. Therefore, the Employer submitted a written request to make the exemption retroactive to September 14, 1987. The Employer represents that all the requisite safeguards were in place and that the Plans' independent fiduciary, Wachovia Bank and Trust, N.A., approved of the transaction as of that date. The Department has considered the entire record, including the comment submitted, and has determined to grant the exemption as proposed, effective September 14, 1987.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this Seventh day of January 1988.

Robert J. Doyle,

Acting Associate Director for Regulations and Interpretation, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–574 Filed 1–12–88; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 21, 1987 through December 31, 1987. The last biweekly notice was published on December 30, 1987 (52 FR 49217).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not

normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 12, 1988 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: January 20, 1987

Description of amendment request: The following proposed Technical Specification (TS) changes are in response to the BG&E application dated January 20, 1987. The proposed TS changes:

(1) Modify the Unit 1 TS Limiting Condition For Operation (LCO) 3.3.3.2 for incore detectors by placing additional restrictions upon operability

above those that were required for operation during the previous cycle (Cycle 8),

(2) Change the surveillance periods of the Unit 1 and 2 TS Surveillance Requirements (SRs) 4.1.3.4.c (demonstration of full length control element assembly (CEA) drop time) and 4.3.3.2.b (incore detector channel calibration) from at least once per 18 months to at least once per refueling interval, where a refueling interval shall be defined as 24 months,

(3) Modify the Units 1 and 2 TS SR 4.7.11.1.1.f.3, for cycling fire suppression water system flow path valves that are not testable during plant operation, and 4.7.11.4.b, for the inspection, reracking and replacement of degraded coupling gaskets for fire hoses inside containment, by extending their associated surveillance intervals from at least once every 18 months to at least once per refueling interval (24 months), and

(4) Renumber the Units 1 and 2 TS SR 4.7.11.1.1.f.3 as 4.7.11.1.1.g.2 and TS SR 4.7.11.1.1.g as 4.7.11.1.1.g.1 and change the Units 1 and 2 TS SRs 4.7.11.1.1.g (fire suppression system flow test), 4.7.11.2.b and c (spray and sprinkler system functional tests), and 4.7.11.4.c (containment fire hose stations operability and hydrostatic tests) by making administrative changes and more restrictive changes to the surveillance requirements.

Basis for proposed no significant hazards consideration determination: Change No. 1 proposes to modify the Unit 1 TS LCO 3.3.3.2 for incore detector operability by making its provisions more restrictive than those required for Unit 1 Cycle 8 operation. During startup for Unit 1 Cycle 8, an unexpectedly large number of incore detector strings failed thereby placing the Unit close to its operability limits. To provide increased operational flexibility for Unit 1 during Cycle 8 operations, the requirements of TS LCO 3.3.3.2 were relaxed for one cycle only. In order to restore LCO 3.3.3.2 to its pre-cycle 8 requirements, the following modifications are proposed:

(1) LCO 3.3.3.2.a would require at least eight operable symmetric incore detector segment groups, with at least two of these detector segment groups at each of the four axial elevations containing incore detectors, to have sufficient operable detector segments to compute at least two azimuthal power tilt valves at each of these four axial elevations. During Cycle 8, eight symmetric incore detector segment groups of no specified elevation were required with sufficient operable detector segments to compute at least two azimuthal power tilt valves at three of the four axial elevations.

(2) LCO 3.3.3.2.b would require that at least 75% of all incore detector segments be operable for recalibration of the excore neutron flux detection system rather than the 50% required during Cycle 8.

(3) LCO 3.3.3.2.c would require, for monitoring the unrodded planar radial peaking factor, the unrodded integrated radial peaking factor, or the linear heat rate, that at least 75% of all incore detector locations be operable rather than the 50% required during Cycle 8.

On March 6, 1986, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration.

One of the examples, (ii) was "a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications." This proposal is one such change as the proposed TS LCO modifications make the operability requirements for incore detectors more restrictive than those currently specified for Cycle 8.

Based upon the above, the NRC staff agrees with the licensee's evaluation and proposes to determine that the proposed changes to TS LCO 3.3.3.2 involve no significant hazards considerations.

Change No. 2 proposes to change the surveillance periods from 18 to 24 months for the Units 1 and 2 TS surveillance requirements for demonstrating full length CEA drop time (TS 4.1.3.4.c) and for performing incore detector channel calibrations (TS 4.3.3.2.b).

The current surveillance period for these tests is 18 months which corresponds to the current refueling cycle. The extension in the surveillance interval to 24 months is requested to facilitate a 24-month operating cycle.

The licensee evaluated the proposed change against the standards in 10 CFR 50.92 and has determined that the amendment would not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated...

The licensee has proposed a six-month extension in the surveillance period of TS 4.1.3.4.c for performing CEA drop time test. Control element assembly drop time is required to be less than or equal to 3.1 seconds. The CEA drop time is measured from the time that electrical power is interrupted to a fully withdrawn CEA to the time required for the CEA to be at its 90% insertion position. This drop time testing is performed at a reactor coolant system average temperature greater than or equal to 515° F and with all four reactor coolant pumps operating. These conditions are representative of reactor conditions for reactor trips from operating conditions. The purpose of the CEA drop time testing is to ensure that scram insertion times are consistent with those used in the safety analyses. Factors which could adversely affect the CEA drop times when the surveillance interval is increased are (1) changes in component clearances, (2) changes in the physical configuration of the CEA or guide tubes, and (3) the buildup of corrosion products and suspended material in the coolant system that could interfere with CEA motion. Changes to component clearances and changes in the physical configuration of the CEA or guide tubes are more likely to occur when the reactor vessel head is removed and when maintenance is performed on the CEAs (including replacement) and that portion of the drive system directly interfacing with a fuel assembly. For these two factors, Surveillance Requirements 4.1.3.4.a and 4.1.3.4.b are applicable and not affected by the proposed change in the testing interval of Surveillance Requirement 4.1.3.4.c. Buildup of corrosion products and suspended material in the coolant system are minimized by coolant chemistry requirements and other controls on the reactor coolant system. In addition, each CEA is exercised at least once per 31 days in accordance with Surveillance Requirement 4.1.3.1.2. This testing should detect sticking CEAs and mitigate the proposed 6-month extension in the surveillance interval of TS 4.1.3.4.c for demonstrating CEA drop time. Furthermore, each planned or unplanned reactor trip that may occur during the extended 24-month operating cycle would provide additional information on CEA drop times and operability, thus, indicating any problems developing with regards to CEA drop time.

To determine the time dependency of CEA drop time with respect to the length of the operating cycle, CEA drop time measurements from 15 hot functional test data/sets were analyzed. Eight sets of measurements were taken from Unit 1 and seven from Unit 2. The average CEA drop time for standard fuel assemblies was approximately 2.3 seconds. The maximum standard deviation for drop times in any fuel cycle was 0.094 seconds. The 15 sets of test data included data from both 12-month and 18-month fuel cycles. Thus, this data indicates that no increase in drop time trend was observed due to either

lengthening the operating cycles or to increased periods between surveillance testing from 12 to 18 months.

The licensee's analysis of previous fuel cycle CEA drop time measurements, which showed no adverse affects when shifting from a 12-month to an 18-month cycle, as well as the other surveillance requirements that are performed to determine CEA drop time, indicate that the CEA drop time should not be appreciably affected by the proposed 6-month extension of the surveillance period of the TS 4.1.3.4.c to 24 months. Hence, the probability or consequences of previously evaluated accidents would not be significantly increased.

Also, the licensee has proposed a 6-month extension in the surveillance interval of TS 4.3.3.2.b for performing incore detector channel calibrations. The incore detector channel calibration excludes the neutron detectors but includes all electronic components. The channel calibration consists of two parts: (1) a resistance check of the cable from the computer termination to the reactor core, and (2) a check of the ability of the computer to read a known voltage level. The resistance check verifies cable integrity. A review of resistance checks performed since the initial startups of Calvert Cliffs Units 1 and 2 has been conducted. No evidence of cable degradation was found. However, all of the in-containment cable is being replaced with environmentally qualified cable. The design specification for the new cable will ensure that it is at least as reliable as the cable it replaces. The second part of the channel calibration checks the computer's ability to read a known voltage level. Three known signals are input into the computer: (1) a short circuit, (2) a 150 millivolt signal, and (3) a 250 millivolt signal. Proper computer readings are verified for each test with the voltages being between ±2 millivolts. Other checks to verify proper computer operation are also performed and include CRT and alarm printer verification.

Test data from the initial units' startups to the present has been reviewed to determine if performance changed in an adverse manner over time and with the shift from a 12-month to an 18-month operating cycle. The licensee noted no adverse trends and found that all tests had been consistently satisfactory.

In addition, performance of the power distribution TS Surveillance Requirements 4.2.2.1.2 and 4.2.3.2, which are at least once per 31 mode 1 days, provides further assurance of the operability of the incore detection system. The licensee states that if the incore detector system was to be inoperable, other methods are employed to carry out its monitoring and calibration functions.

The licensee's analysis of previous fuel cycle incore detection system calibration data, which showed no adverse trends when shifting from a 12-month to an 18-month cycle, as well as the power distribution surveillance requirements that are imposed at least once every 31 days of mode 1 operation, indicate that the operability of the incore detectors should not be appreciably affected by the proposed 6-month extension to 24 months of the surveillance interval of TS 4.3.3.2.b for performing incore detector channel calibrations. Hence, the probability or consequences of previously evaluated accidents would not be significantly increased.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated...

The proposed changes only extend the surveillance intervals for CEA drop time testing and incore detector calibrations. This proposal does not change any system design or facility operation; therefore, it does not create the possibility of a new or different kind of accident from any previously evaluated.

(iii) Involve a significant reduction in a margin of safety...

The margins of safety that could be potentially affected by these changes included the margin from reactor coolant system overpressurization and the margins from peak centerline temperature (PCT) and from the depature from nucleate boiling (DNB), due to a possible decrease in the negative reactivity insertion rate on a reactor trip and from inaccurate flux monitioring due to degradation in the incore detectors.

However, a review of plant surveillance history shows that: (1) both of these systems (CEAs and incore detectors) have been extremely reliable, and (2) the surveillance results of both systems have routinely yielded excellent results that were independent of the time between surveillances (cycle length). In addition, in both cases there exists other TS surveillance requirements that monitor CEA and incore detector performance and would most likely indicate any ongoing degradation in either system, thus mitigating any potential hazards presented by extending the surveillances intervals. Therefore, this change does not involve any significant reduction in a margin of safety.

Based upon the above, the NRC staff proposes to determine that the proposed changes to TS Surveillance Requirements 4.1.3.4.c and 4.3.3.2.b involve no significant hazards considerations.

Change No. 3 proposes to modify the Units 1 and 2 TS SRs 4.7.11.1.1.f.3, for cycling fire suppression water system flow path valves that are not testable during plant operation, and 4.7.11.4.b, for the inspection, re-racking and replacement of degraded coupling gaskets for fire hoses inside containment, by extending their associated surveillance intervals from at least once every 18 months to at least once per refueling interval (24 months).

The interval for these surveillances is 18 months which corresponds to the current refueling cycle. The extension of the surveillance interval to 24 months is requested to facilitate a 24-month operating cycle.

The licensee evaluated the proposed change against the standards in 10 CFR 50.92 and has determined that the amendment would not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated...

The proposal to modify TS Surveillance Requirement 4.7.11.1.1.f.3 affects only two fire suppression water system valves inside containment. LCO 3.7.11.1.c at all times requires an operable fire suppression water system flow path that takes a suction from the water storage tanks and transfers the water through the distribution system up to the first valve before the water flow alarm device on each sprinkler, hose standpipe or spray system riser. All valves in this flow path can be tested during unit operation with the exception of the two valves inside containment (the motor operated containment isolation valve and a manual block valve). TS Surveillance Requirement 4.7.11.1.1.f.3 requires these two valves to be tested by cycling and verifying flow. The licensee's results from a review of plant history indicate that there has never been a failure of either valve to perform adequately. The licensee further states that there is no evidence that a 6-month extension in this surveillance interval between valve cycles would adversely impact valve operation. Hence, the probability or consequence of previously evaluated accidents would not be significantly increased by the proposed 6-month extension of the surveillance interval of TS 4.7.11.1.1.f.3.

The proposed modification of TS Surveillance Requirement 4.7.11.4.b would affect only the inspection and reracking of fire hoses inside containment. A review of previously conducted containment fire hose inspections revealed no failures of the

fire hoses. The licensee states that these results were expected as it has been a licensee policy to replace all fire hoses inside containment on a three-year frequency. The licensee intends, for the 24-month operating cycle, to hydrostatically test or replace all containment fire hoses every two years.

Furthermore, test results have shown that the hose coupling gasket material has not degraded significantly over the three-year interval between hose replacements. Finally, during hose inspection, there has never been evidence of hose mildew, rot or similar damage due to chemicals, abrasion, moisture or normal wear. Thus, it is unlikely that the containment fire hoses would experience any significant degredation over the proposed 6-month surveillance interval extension. Hence, the probability or consequences of the proposed change to TS 4.7.11.4.b would not significantly increase the probability or consequences of any previously evaluated accidents.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated...

These proposed changes do not create the possibility of any new or different accidents as no plant modifications or changes in system operation or surveillance testing, other than test interval, shall be made.

(iii) Involve a significant reduction in a margin of safety...

Extending the surveillance interval for these two tests does not involve a significant reduction in any margin of safety. Efforts were made to extend the surveillance interval of only those tests that could not be performed during unit operation (i.e., testing and inspecting fire hoses and fire suppression water system valves inside containment). These containment fire protection components are generally inaccessible during unit operation, and so, will be tested during refueling outages. However, the likelihood of a fire inside containment during unit operation is much smaller than during outage work periods. Thus, the likelihood of a fire occurring inside containment that would damage safety and safety-related systems will not be significantly increased by this proposed 6-month test interval extension. Therefore, the margins of safety provided by these safety and safety-related systems will not be significantly reduced.

Based upon the above, the NRC staff proposes to determine that the proposed changes to TS SRs 4.7.11.1.1.f.3 and 4.7.11.4.b involve no significant hazards considerations.

Change No. 4 proposes to renumber the Units 1 and 2 TS SR 4.7.11.1.1.f.3 as 4.7.11.1.1.g.2 and TS SR 4.7.11.1.1.g as 4.7.11.1.1.g.1 and to modify the Units 1 and 2 TS SRs 4.7.11.1.1.g, 4.7.11.2.b & c and 4.7.11.4.c by making administrative or more restrictive changes to the current surveillance requirements. The proposed restrictive changes to the surveillance requirements are as follows:

(1) the surveillance interval for performing a fire suppression water system flow test in accordance with TS 4.7.11.1.g would be changed to "at least once per refueling interval" (24 months) from the currently required "at least once per 3 years."

(2) the spray and sprinkler system cycling test of each flow path valve would be conducted at least every 12 months. Currently, only testable valves are required to be cycled at least every 12 months by TS 4.7.11.2.b, whereas TS 4.7.11.2.c.1.b requires the cycling of those not testable during plant operation at least every 18 months. All of these valves, however, are testable during plant operation, making TS 4.7.11.2.c.1.b superfluous. Consequently, the licensee has proposed deletion of TS 4.7.11.2.c.1.b and of the word "testable" from the phrase "by cycling each testable valve" in TS 4.7.11.2.b,

(3) fire hose station valve operability and hose hydrostatic tests currently are required by TS 4.7.11.4.c to be performed at least once per 3 years. The licensee has proposed that these tests on fire hose stations inside containment be required to be performed at least once during refueling interval (24 months).

On March 6, 1986, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazard consideration.

Two of the examples were "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature" and "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." These proposals are such administrative and more restrictive changes as they simplify the TS to better reflect plant conditions and also, require surveillances to be performed more frequently.

Based upon the above, the NRC staff agrees with the licensee's evaluation and proposes to determine that the proposed changes to TS 4.7.11.1.1.f.3, 4.7.11.1.1.g, 4.7.11.2.b. & c and 4.7.11.4.c involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Robert A. Capra, Director

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment: November 6, 1987 as supplemented by December 16, 1987

Description of amendment request: The proposed amendment would revise Tables 3.2-1 and 4.2-1 of the Quad Cities, Units 1 and 2, Technical Specifications (TS) for High Pressure Core Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) Systems Steam Line High Flow Indication Instrumentation. More specifically, a TS amendment was requested that would: (1) revise the number of operable or tripped HPCI and RCIC steam line high flow indication instrument channels from a minimum of four (4) channels to two (2) channels; this will correct a discrepancy that has existed since the original TS were issued, by making the number of channels consistent with the original design basis and actual plant configuration, and (2) revise the HPCI and RCIC high steam flow time delay setting of $3 \leq t \leq 10$ seconds to a more conservative setting of $3 \leq t \leq 9$ seconds; this change was recommended by the Commonwealth Edison Company (CECo, the licensee) Engineering Department based upon General Electric (GE) Company analysis.

Additionally, the TS amendment would correct a typographical error in the associated surveillance requirement bases. Current TS for Units 1 and 2 identify the high steam flow instruments as 1-2389 A thru D and 2-2389 A thru D, while the correct designations are 1-2352, 1-2353, 2-2352 and 2-2353. The low pressure instruments are listed as 1-2352, 1-2353, 2-2352 and 2-2353 in the Units 1 and 2 TS, while the correct designations are 1-2389 A thru D and 2-2389 A thru D. Instrument numbers for the high steam flow instrumentation were actually the designations for the low pressure instrumentation while the instrument numbers for the low pressure instrumentation, are actually the designations for the HPCI high steam flow instruments. Revising these instrument designations is considered to be an administrative change.

The application for amendment was originally noticed in the **Federal Register** (52 FR 45884) on December 2, 1987. CECo supplemented their initial

submittal on December 16, 1987 to incorporate the proposed time delay setting into applicable surveillance requirements of Table 4.2-1. This revised time delay setting for TS table 4.2-1 had been inadvertently omitted from the November 6, 1987 application for amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.91(a), the licensee has provided the following analysis in their amendment application addressing these three standards.

CECo has analyzed this proposed amendment and determined that operation of the facility, in accordance with the proposed amendment, would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. Previously evaluated accidents were based on two channels for the RCIC and HPCI steam line flow indications rather than four; this means that the evaluations were based on conditions that actually exist in the plant, not the number of channels found in the current Technical Specifications. Plant operations and accident analyses are not changed.

b. The proposed time delay setting is lower than the setting which currently exists. Operating with a maximum time delay setting of nine seconds is more conservative that the previously approved ten second value.

c. Changing instrument designation to correct typographical errors are considered to be an administrative change and has no effect upon previously evaluated accident scenarios.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because:

a. The number of HPCI and RCIC instrument channels are corrected to reflect the number of channels that actually exist, and upon which the original system design was based. The manner in which the plant has been, or will be operated does not change. Additionally, operating with a minimum number of two tripped or operable HPCI or RCIC high flow instrument channels is more conservative than with four channels.

b. The new time delay setting is more conservative than the value that currently exists in the Quad Cities TS.

c. Correction of typographical errors are considered to be administrative in nature and have no effect on plant operation.

3. Involve a significant reduction in the margin of safety because:

a. The number of HPCI and RCIC instrument channels are corrected to reflect actual plant configuration and original design. There are no changes being made to hardware. The proposed amendment does not reduce the margin of safety since the minimum number of operable or tripped channels will be more conservative.

b. The new maximum time delay setting will be more conservative than the value currently in TS.

c. Correction of typographical errors involve the designation for HPCI instrumentation only, safety margins are unaffected.

The Commission has reviewed the licensee's TS amendment request and concurs with their analysis for no significant hazards consideration determination. Accordingly, the Commission proposes to determine the aforementioned amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennephin Avenue, Dixon, Illinois 61021.

Attorney to licensee: Michael I. Miller, Esq. of Isham, Lincoln, & Beale at Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment: December 22, 1987

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 3.2.D.3 (refueling floor radiation monitor setpoint) and associated bases, and TS 6.2.C.1 (review responsibilities for changes to procedures).

Current TS establish a trip setpoint of 100 mR/hr for refueling floor radiation monitors. Commonwealth Edison Company (CECo, the licensee) has proposed revising this setpoint to "less than or equal to 100mR/hr" in order to prevent possible inadvertent trips during instrument calibration. These radiation monitors are calibrated to 100 mR/hr which does not allow for normal instrument setpoint drift if the TS trip setpoint is also at 100 mR/hr.

Instead of allowing review and approval responsibilities to be split up among various subject areas as required by present TS, the proposed amendment would prescribe that all procedure changes "shall be reviewed and approved by the Technical Staff Supervisor, the Assistant Superintendent, and department head...". Altering review and approval responsibilities for changes to procedures (identified in TS Section 6.A and 6.B), in this fashion, should increase consistency and improve uniformity for all areas of plant activities. Furthermore, this proposed amendment will also elevate review responsibility to a higher level of management.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.91(a), the licensee has provided the following analysis in their amendment application addressing these three standards.

CECo has analyzed this proposed amendment and determined that operation of the facility, in accordance with the proposed amendment, would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendment merely establishes an upper bound limit for the refuel floor radiation monitors consistent with what currently exists in the Tech Specs. This is considered to be a change in the conservative direction and will not effect system design or safety function.

The proposed amendment also raises the level of reviews for procedure changes to the Assistant Superintendent level for all procedures identified in Section 6.2.A. and 6.2.B. of the TS. This change results in a higher level of approval for changes to procedures than is currently provided in the TS. This change is considered to be administrative in nature and should improve the quality of plant procedures used to operate the station.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed amendment does not exceed the existing setpoint for refuel floor radiation monitors, but rather makes 100mR/hr the upper bounding value. There are no hardware

changes, nor are there any new modes of operation associated with this amendment.

Revised review and approval responsibilities for procedures changes would be an administrative change. No new equipment or modes of operation have been introduced as a result of this TS revision. Revising the authorization level for procedure changes to a higher level does not introduce any new equipment or modes of operation at Quad Cities Station.

3. Involve a significant reduction in the margin of safety because the setpoint of 100mR/hr is not being changed to a different value, but rather is becoming an upper bounding value for the refuel floor radiation monitors. This will prevent inadvertent trips which may occur because of normal instrument drift and unnecessary system challenges. Any deviation from the 100mR/hr setpoint allowed by the proposed TS change would result in an increased margin (i.e. radiation level setpoint is only allowed to be lowered).

Section 6 revisions are considered to be administrative in nature. This TS revision being proposed does not result in hardware modifications that would effect the way plant systems are being operated.

The Commission has reviewed the licensee's TS amendment request and concurs with their analysis for no significant hazards consideration determination. Accordingly, the Commission proposes to determine the aforementioned amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennephin Avenue, Dixon, Illinois 61021.

Attorney to licensee: Michael I. Miller, Esq. of Isham, Lincoln, & Beale at Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: May 26, 1987.

Description of amendment request: The proposed change would revise the license condition for the receipt, possession and use of byproduct, source and special nuclear material in accordance with a standard, generalized format that allows flexibility in amounts of such material in support of reactor operation.

Basis for proposed no significant hazards consideration determination: The licensee has evaluated this proposed amendment for determining whether or not it involves a significant hazards consideration as follows:

The control of byproduct, source or special nuclear material sources exceeding 100 millicuries is by approved Radiological Services Department procedures which contain information described in Regulatory Guide 1.70.

The ability to handle sources has been demonstrated at Palisades since the Provisional Operating License was issued. Personnel qualifications, facilities, and equipment and procedures for handling have also been established. Surveillance leak testing to determine source leakage was incorporated into the Technical Specification, Section 6.21, approved in Amendment No. 98.

The amount of reactor fuel which can be received, possessed, and used may vary from the present license limit but will be limited by available storage and amounts required for operation.

The changes do not involve a significant hazards consideration at Palisades as this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. This change revises the license conditions for the amount of special nuclear material, source material, and byproduct material in accordance with the NRC's letter of January 24, 1975, with some modification. Provisions to ensure reactor fuel is limited to amounts compatible with the present possession amounts are controlled by the amount of storage space and fuel necessary for reactor operation as described in the FSAR.

The sources will be adequately leak tested, stored and used and records will be maintained as required by the Technical Specification, Section 6.21.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. Appropriate controls for receipt, handling and storage of the special nuclear material, byproduct material and source material are in place and remain unchanged as a result of this request to ensure no new or different accident will be created.

(3) Involve a significant reduction in a margin of safety. The controls over the receipt, handling and storage remain unchanged as a result of this request. These controls will ensure no safety margin is reduced.

The Palisades Plant Review Committee has reviewed this Technical Specification Change Request and has determined that this change involves no significant hazards consideration.

The Commission's staff has reviewed the licensee's evaluation and agrees. The staff therefore proposes to determine that this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Martin J. Virgilio.

General Public Utilities Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station Unit 2 (TMI-2), Dauphin County, Pennsylvania

Date of amendment request: April 23, 1987, revised October 26, 1987, November 9, 1987, and December 4, 1987.

Description of amendment request: The proposed amendment would revise TMI-2 Operating License No. DPR-73 by modifying Appendix A Technical Specifications Sections 2 - Safety Limits, 3 - Limiting Conditions for Operation, 3/4 - Basis for Limiting Conditions for Operations and Surveillance Requirements, and 6 - Administrative Controls. Additionally, the proposal would amend the Index. The proposed amendment would extensively revise the TMI-2 Technical Specifications to align license requirements appropriate to current, as well as future, plant conditions through the remainder of the current cleanup operations. At the end of the current cleanup operations the licensee plans to place the facility into a post-defueling monitored storage condition (PDMS). The proposed amendment allows for the transition from the current defueling phase through the completion of defueling and offsite fuel shipment by the incorporation of technical specifications that are applicable during specific phases or modes of the cleanup. Certain technical specifications are retained during the entire transition period while others are phased out or modified as the cleanup progresses. Phase-out of specific requirements would be dependent on the status of the cleanup as defined by the facility mode. Three cleanup modes are proposed:

Mode 1 - The current condition, during which defueling and other major tasks are in progress.

Mode 2 - The period subsequent to defueling of the reactor vessel and the reactor coolant system but prior to completion of the core debris shipping program. The possibility of criticality in the Reactor Building (RB) is precluded and no canisters containing core material are in the RB.

Mode 3 - The period subsequent to shipment of the remaining core material offsite.

Thirty days prior to an anticipated change in mode, the licensee proposes to submit to the NRC a report which provides the basis for the transition.

As noted above the licensee has defined Mode 1 as the current cleanup condition and Mode 2 would begin following the completion of defueling. The licensee's Mode 1 defueling program

is expected to result in the removal of greater than 99% of the reactor fuel. During Mode 1 all technical specification requirements, with one exception, currently in the license would be maintained. This exception involves the licensee's proposal to immediately delete the requirement for NRC approval prior to changes in their Radiation Protection Plan.

After the transition from Mode 1 to Mode 2 the systems and requirements for monitoring and protecting the reactor core are no longer needed and the licensee proposes their deletion. The Borated Water Injection Capability, Reactor Coolant System Water Control, Reactor Coolant System Temperature Control and Neutron Monitoring are examples of systems and monitoring capability which would no longer be needed. Additionally, the requirement for licensed operators would no longer be needed once the core material is removed. Also, the licensee proposes to delete the requirement for preapproval of procedures by the NRC.

The transition from Mode 2 to Mode 3 would further reduce the operability requirements for certain plant systems. For example, with the removal offsite of all of the defueled core material, the requirements to maintain a specific water level and boron concentration for Spent Fuel Pool 'A' would be deleted. Additionally, limitations on crane operation inside the Fuel Handling Building would be deleted and the requirement for the collection of meteorological data would be eliminated from the Technical Specifications.

The licensee also proposes a number of administrative changes to the Technical Specifications. Sections that have been deleted in previous license amendments would be completely removed from the Technical Specifications and no mention of their past incorporation in the license would appear in the amended Technical Specification. Section 2, Safety Limits, previously deleted, would be revised to state that there are no safety limits applicable to TMI-2. The licensee also proposes to revise the Technical Specification Index to be consistent with the deletions. No extensive renumbering of the remaining technical specifications is proposed.

The licensee proposes to change the applicability of Technical Specifications 3.3.3.1, Radiation Monitoring Instrumentation; 3.3.3.8, Fire Detection Instrumentation; 3.6.1.4, Internal Pressure; 3.6.3.1, Containment Purge Exhaust System; 3.7.6.1, Flood Protection; 3.7.9, Sealed Sources; 3.7.10.1, Fire Suppression Water System; 3.7.10.2, Deluge/Sprinkler Systems; 3.7.10.4, Fire Hose Stations; 3.7.11, Penetration Fire Barriers; 3.9.12.1, Fuel Handling Building Air Cleanup Exhaust System; 3.9.12.2, Auxiliary Building Air Cleanup Exhaust System and 3.9.13, Accident Generated Water from "Recovery Mode," which is the current term for the ongoing cleanup operations, to "Modes 1, 2, 3" which is the licensees' proposed terminology for the remainder of the current cleanup effort. Accordingly, there would be a change in the terminology but not in the applicability of the requirements. To parallel this change the licensee proposes to delete from section 1.3 the definition of "Recovery Mode" and replace it with the three modes discussed above.

A revised definition of "Containment Integrity" (Section 1.7) is proposed. The new definition is consistent with the current definition but has been modified to define specific criteria under which double valve isolation external to containment would be allowed due to the unique circumstances of TMI-2. These criteria are similar to those which fall under the present provision of allowing double valve isolation outside containment in accordance with NRC approval.

A new definition of "Containment Isolation" (Section 1.21) has been added to the Definitions Section. The licensee proposes to add this definition to support the addition of Technical Specification 3.6.1.2. Containment isolation requirements have been added for Modes 2 and 3 to provide provisions for maintaining the containment as a contamination barrier during these two facility modes.

The licensee proposes to change the phase "Recovery Mode" to "Facility Mode" in Section 3.0.1, Limiting Conditions for Operation, to reflect the use of modes in the applicability of certain Technical Specifications.

Proposed changes to Technical Specification 3.1.1.1, Borated Cooling Water Injection, incorporate a minimum temperature requirement in the action statement and applicability of this specification only during Mode 1. Borated cooling water injection capability to the Reactor Coolant System (RCS) to eliminate the possibility of an inadvertent criticality is only applicable if there is fuel in the RCS. Once Mode 1 defueling is completed there is no requirement for borated water injection. The minimum temperature requirement was added to the action statement to be consistent with the minimum temperature requirements elsewhere in the specification.

The licensee proposes to make Technical Specification 3.1.1.2, Boron Concentration Reactor Coolant System, applicable only during Mode 1. Boration of the RCS is for the prevention of an inadvertent criticality. Once Mode 1 defueling is completed the possibility of an inadvertent criticality is eliminated, therefore, boration of the RCS is unnecessary.

The licensee proposes to modify Technical Specification 3.1.1.3, Fuel Transfer Canal and Fuel Storage Pool A Boron Concentration, which currently specifies boration of the Fuel Transfer Canal and the Spent Fuel Storage Pool "A" by removing the requirement for boration of the Spent Fuel Pool and placing it in a new section 3.1.1.4, Boron Concentration-Spent Fuel Pool "A", and making the remainder of 3.1.1.3, pertaining only to the fuel transfer canal, and applicable only during Mode 1. Once Mode 1 defueling is completed there is no further need for the fuel transfer canal and therefore, no boration requirements are necessary to avert criticality. During Mode 2 there may still be canisters containing core debris in the Spent Fuel Pool "A". Therefore, there would be a continuing requirement to maintain boration of the fuel pool. The proposed section 3.1.1.4, pertaining only to Spent Fuel Pool "A" would be applicable during Modes 1 and 2.

The licensee proposes to make Technical Specification 3.3.1.1, Intermediate and Source Range Neutron Flux Monitors, applicable only during Mode 1. Once Mode 1 defueling is completed, the shutdown status of the core is assured and the basis for maintaining these monitors no longer exists. The licensee also proposes to delete from the action statement the requirement that a Special Report be submitted if the monitors are inoperative. According to 10 CFR 50.73, a licensee is required to submit a Licensee Event Report (LER) when a Technical Specification Action Statement has not been satisfied. The requirement for a special report is redundant with the requirements under 10 CFR 50.73. The LER would contain the same information as required by the Special Report.

Technical Specifications 3.3.2, Engineered Safety Feature Actuation System (ESFAS) Instrumentation, would be deleted by the licensee. The current technical specification requires the operability of one ESFAS channel related to the automatic starting of the diesel generators with loss of offsite power. Amendment 27 deleted the operability requirements for the diesel generators. There is no longer a basis for

maintaining the ESFAS Instrumentation operable.

The licensee proposes to change the applicability of Technical Specification 3.3.3.4, Meteorological Instrumentation, from Recovery Mode to Modes 1 and 2 and the time clock in the action statement would be changed from eight hours to seven days. The potential off-site consequences of the worst case accident during Mode 3, a fire in the reactor building, is bounded by the numerical guidelines of 10 CFR 50 Appendix I. Since the basis for requiring meteorological data is to evaluate the need for initiating protective measures to protect the health and safety of the public and the worst case release is less than the releases permitted under Appendix I no protective measures would be necessary. Therefore there would be no requirement to maintain meteorological instrumentation for TMI-2. Changing the action statement requiring an inoperable meteorological monitoring channel to be restored within a specified period of time from 8 hours to 7 days is consistent with the requirements of the B&W Standard Technical Specifications and the TMI-2 pre-accident Technical Specification. The requirement for the eight hour timeclock was incorporated in Technical Specification 3.3.3.4 by the NRC Amendment of Order dated February 11, 1980. At the time of this Order, the Reactor Building contained high concentration of radioactive Krypton-85, as well as many other radionuclides. In the event of a leak from the facility it would have been and has been important to have operable meteorological instrumentation to assess the consequences of the release. As the cleanup progresses the magnitude of potentially airborne radionuclides in the facility that could be released to the environment has been substantially reduced. Therefore, the licensee concludes that the original need for the rapid restoration of meteorological data channels no longer exists.

The licensee proposed to change Technical Specification 3.3.3.5, Essential Parameter Monitoring Instrumentation. The specification currently requires the monitoring of the following essential parameters: (1) reactor building pressure, (2) reactor vessel water level, (3) incore temperature, (4) reactor building water level, (5) borated water storage tank level, (6) steam generator level, (7) spent fuel storage pool "A" water level, and (8) fuel transfer canal (deep end) water level.

The licensee proposed to make parameters 3, 4, 5 and 6 applicable only to Mode 1. The requirements for reactor building pressure (1 above) has been transferred to Section 4.6.1.4.a of the Recovery Operations Plan. The requirement for reactor vessel water level (2 above) has been transferred to technical specification 3.4.2, the requirement for spent fuel storage pool "A" water level (7 above) has been transferred to technical specification 3.9.1 and the requirement for fuel transfer canal (deep end) (8 above) has been transferred to technical specification 3.9.3. Once the reactor vessel has been defueled there is no requirement for monitoring incore temperature, reactor building water level, borated water storage tank level or the steam generator level.

Technical Specification 3.3.37, Chlorine Detection Systems would be modified by the licensee by making the specification applicable only during Mode 1. Chlorine detection is required to protect the inhabitants of the control room. An accidental chlorine release would be detected promptly and the Control Room Emergency Ventilation System would automatically isolate the control room and initiate recirculation. Manning the control room will only be required during Mode 1 (see proposed changes to Section 6.2.2 below). Once the fuel has been removed from the RCS the requirement for manning the control room with licensed operators will be deleted. Therefore, the maintenance of the Chlorine Detection System would be unnecessary.

The licensee proposes to change the applicability of Technical Specification 3.4.2, Reactor Vessel Water Level Monitoring, from Recovery Mode to Mode 1. The reactor vessel water level monitor ensures that indication is available to monitor for changes in the reactor vessel water level. This device provides warning of a leak in the RCS inventory that could result in a boron dilution event. Once defueling of the reactor vessel is completed it is no longer necessary to maintain water in the reactor vessel, consequently, the capability to monitor the water level is no longer required.

The licensee proposes to change the applicability of Technical Specification 3.4.9 Pressure/Temperature Limits from Recovery Mode to Mode 1. The current specification states that the RCS shall remain open to the reactor building atmosphere and that repressurization shall only be allowed following NRC approval. Temperature limits on the RCS are specified to prevent precipitation of the boron or boiling of the Reactor coolant. Once Mode 1 defueling is completed there would be no requirement to maintain a specific boron concentration or a potential source of heat to cause boiling. Consequently, the capability to monitor the RCS water temperature and RCS pressure would not be required.

Technical Specification 3.5.1 Control Room Communications presently require that direct communications between the control room or the communication center and personnel in the reactor building be maintained. The licensee proposed to make this requirement applicable only during Mode 1 when core alterations are being made. The current specification states that it is applicable during core alterations. Once the licensee completes Mode 1 defueling there will no longer be any core, therefore, core alterations would not be possible and this requirement would not be necessary.

The licensee proposes to change Technical Specification 3.6.1.1, Containment Integrity, the current specification is applicable during the Recovery Mode the licensee has proposed making it applicable only during Mode 1. Once Mode 1 defueling is completed double containment isolation would no longer be required since the maximum possible release of radionuclides due to the worst case accident, a fire inside containment, would be less than the 10 CFR 50 Appendix I numerical guidelines. The licensee proposes to further modify the specification by allowing modifications to containment penetrations provided that a single isolation barrier is maintained. If no isolation barriers are provided the action statement requires the cessation of any activity inside the reactor building that could result in a radiation release.

Technical Specification 3.6.1.3, Containment Air Locks (Mode 1), would be modified by the licensee to be applicable only during Mode 1. The specification requires the operability of each air lock and both air lock doors. If an air lock is inoperable the requirement is to maintain at least one door closed and repair the air lock to operable status within 24 hours. Once Mode 1 defueling is completed the source term for an inadvertent release of radioactivity to the environment is substantially reduced, consequently, the need to restore the air lock to operable status would not be required.

The licensee proposes to add Technical Specification 3.6.1.2, Containment Isolation. The proposed Technical Specification would require primary containment isolation during Modes 2 and 3. The specification would provide an appropriate provision for

maintaining the containment as a contamination barrier subsequent to Mode 1 defueling. There would no longer be a requirement for double isolation of penetrations.

The licensee also proposes to add Technical Specification 3.6.1.6, Containment Air Locks (Modes 2 and 3). Each containment air lock would be considered operable with at least one air lock door operable during Modes 2 and 3. This would provide an appropriate containment barrier subsequent to defueling. There would no longer be a requirement for double isolation capability for the air locks.

Technical Specification 3.6.1.5, Air Temperature specifies the primary containment average air temperature. The licensee proposes to make this specification applicable only during Mode 1. The purpose of this specification is to insure that the life of instrumentation and equipment installed in the containment is maximized, and that the boron in the RCS will remain in solution preventing the possibility of recriticality. Once defueling is completed there will no longer be the requirements for the operability of most of the instrumentation and equipment, and boration of the RCS, consequently, the requirement to maintain containment temperature within a specified range is not required.

The licensee proposes to modify Technical Specification 3.7.7.1, Control Room Emergency Air Cleanup System by changing the applicability from Recovery Mode to Mode 1. The Control Room Emergency Air Cleanup System is required to be maintained operable to protect control room operators in the event of an accident and to maintain control room habitability in the event of chemical releases. Once Mode 1 defueling is completed there will be no requirement to man the control room (see proposed changes to Section 6.2-2), consequently maintenance of control room habitability is not required.

Technical Specification 3.7.10.3, Halon System, protects circuits and equipment required for safe shutdown and core protection in specific areas of the plant from the propagation of a fire. The licensee proposes to change the applicability of this specification from Recovery Mode to Mode 1. Once Mode 1 defueling is completed there will be no circuits or equipment necessary for the protection of the core.

The licensee proposes to change the applicability of Specification 3.8.1 A.C. Sources, 3.8.2, Onsite Power Distribution Systems, and 3.8.2.3, DC Distribution. The licensee proposes to change the applicability from Recovery Mode to Mode 1. The purpose of these specifications is to assure that the power sources and associated distribution systems are available to supply the safety related equipment required to maintain the unit in a stable condition following the March 28, 1979 accident. Once Mode 1 defueling is completed no safety related equipment will be required to maintain the unit in a safe and stable condition, consequently, the power sources and distribution systems would not be required. The licensee also proposes to administratively renumber specifications 3.8.2.1.b, and 3.8.2.3 and 3.8.2.2.1 respectively.

Technical Specifications 3.9.1, Spent Fuel Pool "A" Water Level Monitoring and 3.9.2 Spent Fuel Pool "A" Water Level require monitoring of the water level in the spent fuel pool and maintenance of a level specified in the Recovery Operations Plan. The licensee proposes to establish the applicability to these two specifications to Modes 1 and 2. Spent Fuel Storage Pool "A" is used to store defueling canisters containing core material prior to shipment offsite. While canisters are in storage in the spent fuel pool the fuel pool will be flooded and borated. Once all canisters have been removed from the TMI site the spent fuel pool will no longer be used, consequently, monitoring and maintenance of a specific water level would no longer be required.

The licensee proposes to change Technical Specifications 3.9.3, Fuel Transfer Canal (Deep End) Water Level Monitoring, and 3.9.4, Fuel Transfer Canal (Deep End) Water Level, by establishing the applicability of the specifications to Mode 1. The Fuel Transfer Canal is used to transfer defueling canisters from the reactor building to the fuel handling building. While transfers take place the Fuel Transfer Canal is flooded and borated to protect personnel from radiation. Once Mode 1 defueling is completed the Fuel Transfer Canal will no longer be needed to transfer defueling canisters and, therefore, monitoring and maintenance of a specific water level would no longer be required.

Technical Specification 3.10.1, Crane Operations-Containment Building, delimits load travel within containment. The license proposes to change the applicability of the specification from Recovery Mode to Mode 1. The basis for this specification is to prevent a load drop into the reactor vessel causing a reconfiguration of the core debris and/or structural damage which could hinder defueling. Once Mode 1 defueling is completed the basis for controlling heavy loads inside the containment will be eliminated and the specification will no longer be required.

The licensee proposes to change the applicability of Technical Specification 3.10.2, Crane Operations-Fuel Handling Building, from Recovery Mode to Modes 1 and 2. The basis for this specification is to prevent a load drop in the Fuel Handling Building causing damage to canisters containing core material. Subsequent to Modes 1 and 2 all core material will have been shipped off-site. Thus, the basis for controlling heavy loads inside the Fuel Handling Building is eliminated and the specification is not required.

The licensee proposes to clarify the applicability of portions of Technical Specification 6.2-2, TMI-2 Organization. Specification 6.2.2 specifies, in part, the staffing required by 10 CFR 50.54 paragraphs (m)(2) (ii) and (m)(2)(iii) for fueled nuclear power plants. Subsequent to Mode 1 defueling TMI-2 will no longer be considered fueled and the licensee proposes that the requirements for licensed operators will no longer apply. Furthermore, the current specification states that a licensed operator would be in the control room when there is fuel in the reactor. The licensee proposes that specifying the applicability to only Mode 1, when there is fuel in the reactor, is an administrative change consistent with NRC regulations. Specification 6.2.2.C states that an individual qualified in radiation protection procedures shall be on site when fuel is in the reactor. The licensee proposes to change the wording of this specification to "During Mode 1, an individual qualified in radiation protection procedures shall be onsite when fuel is in the reactor."

The licensee proposes to limit the applicability of Technical Specification 6.8.2.2, Procedures, to Mode 1. The current Technical Specification requires NRC review and approval of all procedures and changes thereto which alter the distribution or processing of a quantity of radioactive material the release of which could cause the magnitude of radiological releases to exceed 10 CFR 50 Appendix I limits. Once Mode 1 defueling is completed the potential source term within the reactor building and the maximum credible accident, a fire, would not result in a maximum dose to an individual from fission products and transuranics in excess of 10 CFR Appendix I limits. Although during Mode 2 there will be defueling canisters containing significant amounts of fuel still onsite the licensee is of the opinion that these canisters have proven to be effective in preventing inadvertent criticality.

Furthermore, potential accident scenarios associated with these canisters have shown that they provide adequate protection for the public.

The licensee proposes to change Technical Specification 6.11, Radiation Protection Program, by deleting the requirement for NRC approval of the Radiation Protection Plan. Removal of this requirement is based on the past performance of the licensee in the area of radiation protection and the desire to remove the NRC from the procedure review and approval cycle at TMI-2. It is also consistent with the Standard Technical Specifications for Babcock and Wilcox plants. Auditing by the NRC of the Radiation Protection Plan and licensee compliance with the plan would continue.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

TMI-2 is in a long-term cold shutdown for accident recovery. Short-lived fission products which make up the preponderance of the source term for operating reactors have decayed to negligible levels. The decay heat produced by the core has now dropped to less than 10 kilowatts and forced cooling of the core has not been required or used since 1981. Consequently, in previous license amendments, the staff has determined that the potential accidents analyzed for TMI-2 in the current mode are bounded in scope and severity by the range of accidents originally analyzed in the facility FSAR.

The changes proposed by the licensee are changes to the Appendix A Technical Specifications. They consist primarily of specifying the circumstances under which the existing Specifications are applicable and improving the clarity of the requirements. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated because no changes to current safety systems or setpoints are proposed while there is still sufficient fuel in the RCS to cause a criticality event. No active systems are required to maintain TMI-2 in its current safe shutdown condition. Once Mode 1 defueling is completed the possibility of an offsite release of radiation in excess of 10 CFR 50 Appendix I limits is greatly reduced. Those systems necessary to monitor the core and facilitate defueling will no longer be required. Maintenance of these systems will no longer be necessary.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because no new modes of operation or new equipment are being introduced. Deletion of monitoring requirements cannot create the possibility of any new or different kind of accident. Deletion of safety systems designed to protect the core once the core is removed cannot increase the probability of accidents. The proposed changes represent a gradual reduction in the scope of license requirements and are consistent with the changing status of the facility as the cleanup progresses.

The proposed changes do not involve a significant reduction in a margin of safety, because, as mentioned perviously, no active components are required to maintain the current safe shutdown of TMI-2. Furthermore, as the cleanup progresses the margin of safety increases. Once Mode 1 defueling and Mode 2 offsite shipment is completed there will be a significant increase in the margin of safety.

Based on the above considerations, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: State Library of Pennsylvania Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW. Washington, DC 20037.

NRC Project Director: William D. Travers

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of amendment request: July 13, 1987

Description of amendment request: This amendment would modify a provision of Section 1.II of the Hatch Unit 1 Technical Specifications (TS) which limits the operating cycle length for instrument and electrical surveillance. The existing TS 1.II limits the operating cycle interval to 15 months as regards instrument and electrical surveillance. The proposed change would define the operating cycle interval as 18 months instead of 15 months and would delete the reference to electrical and instrumentation surveillance.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR Part 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Standard Technical Specifications (STS) include a Surveillance Frequency Notations table (Table 1.1) which defines a refueling cycle interval as 18 months. A copy of this table is incorporated in the TS for Hatch Unit 2. However, the Hatch Unit 1 TS, which are in an earlier "custom" TS, have a Section 1.II defining "Surveillance Frequency" in which it is stated that: "The operating cycle interval as pertaining to instrument and electrical surveillance shall never exceed 15 months." The terms operating cycle and refueling cycle are synonymous. Thus, the 15-month operating cycle for Unit 1, as specified in TS 1.II, is more restrictive than the 18-month refueling cycles specified in the STS and in the Hatch Unit 2 TS. Further complicating matters, Amendment 110 to the Hatch Unit 1 TS added a Table 1.1, "Frequency Notations," in which a refueling cycle interval is specified as 18-months. However, Section 1.II was not changed. Thus, the Unit 1 TS are internally inconsistent. The licensee proposes to change the words in Hatch Unit 1 definition of Surveillance Frequency to: "The operating interval is defined as 18-months." This change would remove the internal inconsistency and would adjust the operating cycle for Hatch Unit 1 to the same 18-month period allowed for Unit 2.

The licensee states that the actual plant trip setpoints for instruments and electrical equipment are set conservative to the TS allowable values, such that the allowable values are not compromised during an operating cycle by instrument drift. Extending the

allowable time between refuelings to 18 months instead of 15 months would require an adjustment to the actual trip setpoints, but would not affect the TS allowable setpoints. Thus, this change would not involve a significant increase in the probability or consequences of an accident previously evaluated. Further, since the design functions of the electrical and instrument systems are not affected by this change, the change would not create the possibility of a new or different kind of accident from any accident previously evaluated. Finally, margins of safety are not significantly reduced by the proposed change since the TS allowable setpoints are unchanged.

On the basis of the above, the Commission has determined that the requested amendment meets the three criteria and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Lawrence P. Crocker, Acting Project Director

GPU Nuclear Corporation, Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: November 9, 1987 (TSCR 173)

Description of amendment request: The proposed amendment would remove the Radiological Environmental Monitoring Program (REMP) from the Technical Specifications. In addition, the REMP would be changed to: (a) permit monitoring frequencies to be changed to calendar periods such as weekly, monthly, etc; (b) increase the time from 30 days to 60 days for reporting environmental samples exceeding the reporting levels; and (c) make typographical and administrative changes. The REMP will continue to be required by the Technical Specifications even though it is not in the Technical Specifications. Future changes to the REMP that would reduce the effectiveness of the REMP are required to be reviewed and approved by NRC prior to implementation by the licensee.

Basis for proposed no significant hazards consideration determination: The licensee proposed Technical Specification Change Request (TSCR) No. 173 to remove the REMP from the Technical Specifications although the REMP will still be required by the Technical Specifications. It has evaluated TSCR 173 to determine if a significant hazards consideration exists. The results of this evaluation are given below in terms of the criteria in 10 CFR 50.92(c):

Removal of the Radiological Environmental Monitoring Program (REMP) from the Technical Specifications reduces the size of the Technical Specifications without impacting the effectiveness of the REMP. The changes to the REMP are administrative with one noted change to the reporting requirements of the REMP. The REMP will continue to be required by technical specification even though 10 CFR 50.36a does not require the REMP to be in the technical specifications. The REMP is a reformatted version of the technical specification it replaces. The information and specific requirements of the program are essentially the same as the former technical specification with the following exceptions:

1. Monitoring frequencies that are specified in a specific number of days has been changed to a calendar period such as weekly, monthly, etc. as appropriate. Other minor changes have been made to be more consistent with NUREG-0472 and the Branch Technical Position.

2. Typographical errors have been corrected.

3. A reporting requirement for environmental samples exceeding the reporting levels as specified in Table 2 has changed. This was changed from 30 to 60 days to allow adequate time for laboratory analysis of samples.

Safety and safety controls shall remain unaffected.

Future changes that reduce the effectiveness of this initially approved REMP shall be reviewed and approved by the NRC prior to implementation by GPUN. This is required by Technical Specification 6.15.

Future changes that do not reduce the effectiveness of the REMP shall be submitted to the NRC for review in the Annual Radiological Environmental Operating Report for the period in which the changes were made. These changes will be fully reviewed and approved by GPUN management consistent with review and approval procedures, prior to implementation. This is required by Technical Specification 6.5.

GPUN has determined that this technical specification change request poses no significant hazards as defined by the NRC in 10 CFR 50.92.

Since this change is administrative:

A. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The technical specification changes are administrative and do not affect plant equipment. The results of this change will not impact the safety of the plant or the public health.

Therefore, the technical specification change for the Radiological Environmental Monitoring Program does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

B. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of affect from any accident previously evaluated since it does not affect plant equipment.

Therefore, it is concluded that the technical specification change for the Radiological Environmental Monitoring Program does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. All safety criteria as described in the former technical specification bases are preserved in the Radiological Environmental Monitoring Program.

Therefore, it is concluded that the technical specification change for the Radiological Environmental Monitoring Program does not involve a significant reduction in a margin of safety.

We agree with GPU's conclusion that this license amendment request involves no significant hazards considerations in that operation of TMI-1 in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. Involve a significant reduction in a margin of safety.

The REMP will remain as a functional program and we can perceive at this time no significant hazard from removing the REMP from the Technical Specifications. Adjustments to monitoring frequencies and one reporting requirement are minor and insignificant in terms of plant safety and public health. Future changes to the REMP that would reduce its effectiveness are required to be approved by NRC prior to implementation.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications

Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 10, 1987.

Description of amendment request: The proposed change would revise Technical Specification 3.5.2, ECCS Subsystems - Tavg Greater than 350° F and Technical Specification 3.5.3, ECCS Subsystems - Tavg Less than 350° F by adding a note to the Applicability section of both Technical Specifications to indicate that two ECCS subsystems are required to be operable when the RCS average temperature is equal to or greater than 500° F.

Technical Specification 3.5.2 currently requires two independent emergency core cooling system (ECCS) subsystems to be operable when the reactor is in Modes 1, 2 and 3; however, the requirements of this Technical Specification in Mode 3 are applicable only if the pressurizer pressure is equal to or greater than 1750 psia. The proposed change will add a note to the Mode 3 applicability statement that will require both ECCS subsystems to be operable any time the RCS average temperature is equal to or greater than 500° F, regardless of the pressurizer pressure.

Technical Specification 3.5.3 currently requires one ECCS subsystem to be operable if the reactor is in Modes 3 and 4 with a Mode 3 requirement that the pressurizer pressure is less than 1750 psia. The proposed change to this Technical Specification is similar to the proposed change to Technical Specification 3.5.2 in that a note will be added to the Mode 3 applicability statement that requires the RCS average temperature to be less than 500° F before it is acceptable to have only one ECCS subsystem in service.

The reason for the proposed change to these Technical Specifications is to ensure that at least one train of high pressure safety injection (HPSI) is available (even if a single failure is assumed) to mitigate the consequences of a postulated steam line break (SLB) accident initiated from an RCS average temperature of 500° F or greater. The Cycle 2 safety analysis has shown that borated water from HPSI is required to prevent the core from becoming critical during the uncontrolled RCS cooldown (associated with a SLB) from greater than 500° F.

In addition, the proposed change will also revise the title of the subject Technical Specifications such that they will be described in terms of modes of operation rather than average coolant temperature.

Basis for Proposed No Significant Hazards Considerations Determination: The NRC staff proposes that the proposed change does not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The proposed change will require that two ECCS subsystems are operable whenever the average temperature of the RCS is equal to or greater than 500° F. This will ensure that, even if one ECCS subsystem is assumed to fail, one train of HPSI will be available to inject borated water into the RCS during an SLB. As described in the safety analysis for Cycle 2, borated water (from HPSI) is required to mitigate the reactivity transient associated with the RCS cooldown and prevent the core from returing to a critical condition. Below 500° F the RCS cooldown (and associated reactivity transient) during the SLB is less severe and HPSI flow is not required to maintain the core subcritical. Therefore, since the proposed change reduces the consequences of a SLB it will not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed change does not involve any physical changes to plant systems, structures or components nor will there be any significant changes to plant operating procedures. The proposed change will simply clarify the RCS conditions which must exist prior to taking one of the ECCS subsystems out of service. Thus, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of this Specification is to ensure there will be sufficient emergency core cooling capability available in the event of a LOCA and a coincident single failure that results in the complete loss of one ECCS subsystem. The proposed change will not affect the LOCA analysis since it merely adds a restriction that requires both ECCS subsystems to be operable whenever the RCS temperature is equal to or greater than 500° F. This additional restriction ensures that sufficient borated water can be added to the RCS to mitigate the reactivity transient associated with the uncontrolled RCS cooldown that occurs during a steam line break. Since the proposed change adds a restriction that was not already a part of the Technical Specifications and since this restriction ensures that the consequences of a broader range of steam line breaks can be mitigated, the proposed change will result in an increase in the margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether significant hazards consideration exists by providing certain examples (52 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, (e.g., a more stringent surveillance requirement).

In this case, the proposed change is similar to Example (ii) in that it constitutes an additional restriction (i.e., RCS temperature) that must be satisfied before it is acceptable to have only one ECCS subsystem in service.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: November 16, 1987

Description of amendment request: The proposed amendment would revise the allowable value and isolation trip setpoints for the reactor core isolation cooling (RCIC) high steam line flow. As

noted in the Technical Specifications, the existing values are preliminary with the actual values to be determined during the startup test program. The proposed changes are based on system testing during the startup test program. The proposed amendment is in accordance with the licensee's application of November 16, 1987.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated for the following reasons:

The RCIC Steam Line break analysis assumes that the system will isolate when the steam flow reaches 300% of rated steam flow. This change to the Technical Specification assures that the as-built plant is in agreement with the design basis. Revising the setpoint to the as-built conditions equivalent to the 300% rated flow value assures that a RCIC steam line break will be detected and isolated in accordance with the requirements of GDC 54 without impacting the qualification or operation of other safety systems or safe shutdown of the plant. The new setpoint is conservative relative to the old setpoint. In summary, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not create the possibility or a new or different kind of accident previously evaluated for the following reasons:

The reactor building response to previously evaluated accidents remains within previously assessed limits of temperature and pressure. Further, all safety-related systems and components remain within their applicable design limits. Thus, system and component performance is not adversely affected by this change, thereby assuring that the design capabilities of those systems and components are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident.

In addition, since the design basis for RCIC system isolation has not changed, the environmental qualification of plant equipment is not adversely affected by this proposed amendment, further assuring that components are not challenged in a manner not previously assessed. In summary, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes will not involve a significant reduction in a margin of safety for the following reasons:

The proposed change will not cause existing Technical Specification operational limits or system performance criteria to be exceeded. The proposed change ensures that the system design requirements are met. Allowances for instrument drift, instrument accuracy, and calibration capability have been maintained in accordance with Bases Section B3/4.3.2 of the Technical Specifications. Therefore, the proposed change does not result in a significant reduction in a margin of safety.

Based upon the above considerations, the staff proposes to determine that the proposed changes do not constitute a significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College, Oswego, New York 13126.

Attorney for licensee: Mr. Mark Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra, Director

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: December 4, 1987

Description of amendment request: The amendment would revise Technical Specification Section 3/4.3.2 to delete the chlorine detection system. The chlorination systems at Millstone Unit Nos. 1, 2 and 3 have been modified to use sodium hypochlorite instead of gaseous chlorine. This has resulted in the elimination of on-site bulk storage of liquid chlorine and the possibility of an on-site chlorine release.

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.92, the licensee has reviewed the proposed changes and has concluded that the amendment does not involve a significant hazards consideration because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The potential for a chlorine release affecting control room habitability no longer exists since the chlorine rail cars have been removed from the Millstone site. Thus, removal of the requirements on the chlorine detection system will not increase the consequences of any event.

2. Create the possibility of a new or different kind of accident from any previously analyzed. There are no changes in the way the plant is operated. No new failure modes are introduced.

3. Involve a significant reduction in a margin of safety. Control room habitability is not affected because on-site chlorine bulk storage has been eliminated, the number of chlorine rail, truck, and barge shipments does not exceed the levels discussed in Regulatory Guide 1.78, and the credible off-site chlorine bulk storage facilities are at least 5 miles distant from the site. The proposed changes do not affect the consequences of any accident previously analyzed.

The staff has reviewed the licensee's submittal and concurs with its no significant hazards determination.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant

to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, Dockets Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: November 25, 1985 and supplemented October 15, 1987

Brief description of amendments: The amendment relocates a footnote from item 1.c.1 of Table 3.3.2-1 to item 1.c.1 of Table 4.3.2-1, thereby ensuring that the required surveillance testing of mechanical pumps is identified.

Date of issuance: December 30, 1987

Effective date: December 30, 1987

Amendments Nos.: 115 and 142

Facility Operating License Nos. DPR-71 and DPR-62. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 29, 1986 (51 FR 3710) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1987.

No significant hazards consideration comments received: No.

The October 15, 1987 letter provided corrected technical specification pages that did not change the initial determination of no significant hazards consideration as published in the **Federal Register**.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: January 28, 1987

Description of amendments: These amendments revise the Technical Specifications to incorporate additional action steps describing steps operators should take if core flow and power do not meet the definition of recirculation system operability and to change the surveillance requirements to require that baseline average power range monitor and local power monitor neutron flux noise levels be established after each refueling outage.

Date of issuance: December 30, 1987

Effective date: December 30, 1987

Amendments Nos.: 114 and 141

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** June 17, 1987 (52 FR 23097) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 8, 1987

Brief description of amendments: The amendments modify the Technical Specifications defining fuel Average Planar Linear Heat Generation Rate limits and Emergency Core Cooling System surveillance requirements.

Date of issuance: December 21, 1987

Effective date: December 21, 1987

Amendment Nos.: 150 and 87

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 18, 1987 (52 FR 44244) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 21, 1983.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Indiana and Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: January 9, 1987

Brief description of amendments: The amendments revised the Technical Specifications by deleting the provision that the auxiliary building crane main hoist be deenergized and the load blocks unloaded whenever the crane is moved over the spent fuel assemblies in the spent fuel pool.

Date of issuance: December 17, 1987.

Effective date: December 17, 1987.

Amendment Nos.: 113 and 96.

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2883) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Indiana and Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: October 28, 1987

Brief description of amendment: The amendment revised the provisions in the Technical Specifications to extend 18-month surveillances from December 31, 1987 to the refueling outage currently scheduled to begin in early 1988 for response-time testing for reactor trip and engineering safety features (ESF) instrumentation; response testing of equipment to ESF signals; reactor vessel level indication calibration; auxiliary feedwater system testing, including channel functional testing of loss of main feedwater pump signal; and diesel generator testing, including relief valve testing and essential service water valve testing.

Date of issuance: December 28, 1987

Effective date: December 28, 1987

Amendment No.: 97

Facility Operating License No. DPR-74. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1987 (52 FR 45413) The Commission's related evaluation of the amendments is

contained in a Safety Evaluation dated December 28, 1987.

No significant hazards consideration comments received: No. The proposed amendment was noticed with an opportunity for prior hearing.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Dates of applications for amendment: October 17, 1986 and August 6, 1987, as supplemented December 15, 1987.

Brief description of amendment: The August 6, 1987 application for license amendment requested changes to the Technical Specifications (TS), Appendix A to the operating license, in eight areas: (1) a clarification to the definition of secondary containment integrity; (2) a change in the name of a supporting organization represented on the Safety Review Committee; (3) a nomenclature change for a secondary containment isolation valve; (4) deletion of the manual initiation handswitch calibration requirement for ECCS pumps; (5) deletion of expired footnotes; (6) a change to reflect new upper containment pool gates; (7) a change to add certain smoke detectors; and (8) a modification to the setpoint for residual heat removal (RHR)/reactor core isolation cooling (RCIC) steam line high flow. These changes are made in this amendment. The October 17, 1986 application for license amendment requested four changes to the TS. Three of the changes were made in Amendment 29 to the operating license, issued March 31, 1987. The fourth requested change, the addition of TS for smoke detectors in the control rod drive repair room, is made in this amendment.

Date of issuance: December 30, 1987

Effective date: December 30, 1987

Amendment No. 42

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications and the Environmental Protection Plan.

Dates of initial notice in **Federal Register:** September 23, 1987 (52 FR 35796) The December 15, 1987 letter provided supplemental information which did not change the initial determination of no significant hazards considerations as published in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 20, 1987

Brief description of amendment: The amendment changed the Technical Specifications relating to design features of the fuel storage facilities.

Date of issuance: December 21, 1987.

Effective date: December 21, 1987.

Amendment No.: 113

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 18, 1987 (52 FR 44246). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: October 20, 1987

Brief description of amendment: To reflect deletion of low reactor pressure permissive switches from the emergency core cooling system (core spray and low pressure coolant injection) pump start logic.

Date of issuance: December 17, 1987

Effective date: December 17, 1987

Amendment No.: 13

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 13, 1987 (52 FR 43694). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 17, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: January 16, 1987

Brief Description of amendment: The amendment changes Technical Specifications to clarify and enhance limiting conditions of operation and surveillance requirements pertaining to the standby liquid control system.

Date of issuance: December 30, 1987

Effective date: 30 days from date of issuance

Amendment No.: 102

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 12, 1987 (52 FR 7700) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: April 28, 1987 as clarified by letter dated November 2, 1987.

Brief Description of amendment: This amendment revises the Technical Specifications to reflect administrative changes to Section 6 of the Technical Specifications.

Date of issuance: December 29, 1987

Effective date: December 29, 1987

Amendment No.: 101

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 23, 1987 (52 FR 35808) and renoticed on November 18, 1987 (52 FR 44247). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By February 12, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Dates of application for amendment: August 13, 1987, as revised October 23, November 25, December 22, and December 27, 1987

Brief description of amendment: The amendment provides interim changes to the Technical Specifications for the standby liquid control system and the ATWS recirculation pump trip system to reflect modifications made to conform to 10 CFR 50.62 regarding anticipated transients without scram (ATWS).

Date of issuance: December 30, 1987

Effective date: December 30, 1987

Amendment No. 41

Facility Operating License No. NPF-29: This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1987 (52 FR 46136) The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated December 30, 1987.

No significant hazards consideration comment received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: December 21, 1987.

Brief description of amendment: The amendment changed the Technical Specifications to extend the secondary containment isolation logic functional test interval from six months to eighteen months.

Date of issuance: December 22, 1987.

Effective date: December 22, 1987.

Amendment No.: 114

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with State of Nebraska, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated December 22, 1987.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

NRC Project Director: Jose A. Calvo

Dated at Bethesda, Maryland this 7th day of January 1988.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[Doc. 88-523 Filed 1-12-88; 8:45 am]

BILLING CODE 7590-01-D

Advisory Committee on Reactor Safeguards Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on January 28, 1988, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Thursday, January 28, 1988—8:30 a.m. until the conclusion of business.*

The Subcommittee will continue its review of the NRC Staff Resolution Position for USI A-45: "Shutdown Decay Heat Removal Requirements."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 6, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-534 Filed 1-12-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Waste Management; Meeting

The ACRS Subcommittee on Waste Management will hold a meeting on January 21 and 22, 1988, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Thursday, January 21, 1988—8:30 a.m. until the conclusion of business Friday, January 22, 1988—8:30 a.m. until the conclusion of business.*

The Subcommittee will review the following pertinent waste management topics: *HLW:* (1) Status report on the effects of recent legislative actions on NRC's HLW program; and (2) NRC's Review Plan for the Yucca Mountain Consultation Draft Site Characterization Plan, including a status report on NRC's review. *LLW:* (1) The DOE and NRC uranium mill tailings programs; (2) Revision 1 of the Standard Review Plan for shallow land burial (SLB), including engineered barriers and alternatives to SLB ; and (3) Status report on recently-reported rupture of TMI–2 radioactive waste liners. *RES:* (1) New directions for HLW and LLW research in response to legislative and budgetary changes; and (2) Hydrologic transport and modeling of the near-surface nitrate disposal area, Chalk River Nuclear Laboratory.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634–1413) between 8:00 a.m. and 4:45 p.m. Persons planning to attend this meeting are urged contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88–535 Filed 1–12–88; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Thermal Hydraulic Phenomena; Change on Location of Meeting

The **Federal Register** published Monday, December 28, 1987 (52 FR 48891) contained notice of a meeting of the ACRS Thermal Hydraulic Phenomena Subcommittee scheduled for January 20 and 21, 1988, 8:30 a.m. *The location has been changed to the Los Alamos Study Center, Building SM 207—Room 216, Cesa Grande Street (off West Jenez Road), Los Alamos National Laboratory, Los Alamos, NM.* All other items pertaining to this meeting remain the same as previously published.

Dated: January 6, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88–538 Filed 1–12–88; 8:45 am]

BILLING CODE 7590–01–M

[Byproduct Material License No. 53–17854–01; Docket No. 30–13435; ASLBP No. 88–559–01–SC]

Finlay Testing Laboratories, Inc.; Designation of Licensing Board in Place of Single Member Presiding Officer

Pursuant to the authority contained in 10 CFR 2.721, the Atomic Safety and Licensing Board for *Finlay Testing Laboratories, Inc.*, Docket No. 30–13435, is hereby appointed. Administrative Judges Robert M. Lazo, Glenn O. Bright and Richard F. Cole will serve in place of Administrative Judge Robert M. Lazo who had been serving as a single member Presiding Officer.

As reconstituted, the Board is comprised of the following Administrative Judges:

Dr. Robert M. Lazo, Chairman
Mr. Glenn O. Bright
Dr. Richard F. Cole

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The addresses of the New Board members are:

Administrative Judge Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Administrative Judge Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 4th day of January 1988.

[FR Doc. 88–537 Filed 1–12–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322–OL–5]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating licensing proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members:

Christine N. Kohl, Chairman,
Alan S. Rosenthal,
Dr. W. Reed Johnson

C. Jean Shoemaker,

Secretary to the Appeal Board.

Dated: January 4, 1988.

[FR Doc. 88–536 Filed 1–12–88; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petitions for Exemptions From the Vehicle Theft Prevention Standard; Chrysler Corp.

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants the petition by Chrysler Corporation for an exemption from the marking requirements of the vehicle theft prevention standard for a 1989 passenger car line Chrysler intends to introduce. The agency grants this exemption under section 605 of the

Motor Vehicle Information and Cost Savings Act. The agency has determined that the antitheft device which the petitioner intends to install on this line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts marking requirements of the standard. NHTSA has decided to grant Chrysler's request that we treat the name plate of this new car line as confidential information until the manufacturer introduces the product line.

DATE: The exemption granted by this notice will become effective beginning with the 1989 model year.

SUPPLEMENTARY INFORMATION: On September 11, 1987, this agency received a petition from Chrysler Motors Corporation (Chrysler) for an exemption from the parts marking requirements of the vehicle theft prevention standard (49 CFR Part 541), pursuant to the requirements of 49 CFR Part 543, *Petitions for Exemption from the Vehicle Theft Prevention Standard.*

On September 8, 1987, NHTSA published a final rule setting out procedures for manufacturers to follow in preparing and submitting petitions for model year 1988 and thereafter. These procedures essentially are identical to precedures adopted in an interim final rule (January 7, 1986, 51 FR 706) establishing the Part 543 requirements to be followed by manufacturers in preparing and submitting petitions for exemption during model year 1987.

The agency reviewed the material Chrysler submitted and concluded that the company met the requirements for petitions in §§ 543.5, 543.6, and 543.7 as of September 11, the date on which NHTSA received Chrysler's completed petition, and on which the 120-day period for processing Chrysler's petition began. The agency further decided to grant the company's request under 49 CFR Part 512 to treat the name plate of the product line and detailed design specifications as confidential business information.

In its petition, Chrysler described an antitheft system that is activated by switching the ignition to "off," opening any door, using the power door locks to activate the locking system, and closing the door. These steps activate the starter interrupt function and also arm an audible and visual alarm. Sensors in the doors, hatch, and trunk trigger the alarm.

Based on substantial evidence, the agency has determined that installing Chrysler's device in this new car line is likely to be as effective in reducing and deterring vehicle theft as are the Part 541 marking requirements. This determination is based on the information Chrysler submitted with its petition and on other available information. The agency believes that the device will provide the types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to unauthorized entries; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by section 605(b) of the statute and 49 CFR 543.6(a)(4), the agency also finds that Chrysler has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Chrysler provided on its device. This information included results of the manufacturer's prototype design verification testing program. The agency notes that the methods of encouraging use and preventing defeat of the Chrysler antitheft device are similar to the methods of other devices that the agency has considered effective. Chrysler stated in its petition that it believes its antitheft device will reduce and deter theft at least to the same extent as complying with Part 541 would.

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs make it difficult at this early state of the theft standard's implementation to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly requires such a comparison, which the agency has made on the basis of the limited data available.

NHTSA notes that if Chrysler wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this Part and equipped with the antitheft device on which the line's exemption was based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden with § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change in the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if Chrysler contemplates making any changes the effects of which might be characterized as *de minimis*, then the company should consult the agency before preparing and submitting a petition to modify.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50)

Issued on: January 7, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88-572 Filed 1-12-88; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 8
Wednesday, January 13, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COUNCIL ON ENVIRONMENTAL QUALITY

DATES, TIME, AND PLACE: Monday, January 25, 1988, 10:00 a.m., Council on Environmental Quality Conference Room, First Floor, 722 Jackson Place Northwest, Washington, DC.

DATE: January 11, 1988.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Under the Council's regulations implementing the National Environmental Policy Act, Federal agencies may refer to the Council federal interagency disagreements concerning proposed major federal actions that might cause unsatisfactory effects. (40 CFR Part 1504 *et seq.*) In accordance with those regulations, the Department of the Interior has referred to the Council a proposal by the Department of the Navy to establish the Cherry I and Core Military Operating Areas at Cherry Point, North Carolina. The primary issue raised in the referral is noise impact on the Cape Lookout National Seashore.

The purpose of the meeting is to aid the Council in seeking a resolution of the referral. Representatives from both the Department of the Navy and the Department of the Interior will be present to discuss the referral with the Council. Additionally, representatives from other federal, state and local agencies and members of the public who have an interest in the referral may present views on the issues raised in the referral. Organizations and individuals wishing to make oral presentations at the meeting must request time in writing from CEQ by January 22, 1988.

Interested individuals need not attend this meeting to present their views. Any person may submit written comments for the record until February 8, 1988.

2. Other business may be discussed.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20503 (202) 395-5754.

A. Alan Hill,

Chairman.

[FR Doc. 88-656 Filed 1-11-88; 2:02 pm]

BILLING CODE 3125-01-M

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Tuesday, January 19, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 11, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-586 Filed 1-11-88; 10:12 am]

BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, January 20, 1988.

PLACE: Conference Rooms 8A, B, & C, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Railroad Accident Report: Rear-End Collision of Amtrak Passenger Train 94 and Conrail Train ENS-121, on the Northeast Corridor, at Chase, Maryland, January 4, 1987.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,

Federal Register Liaison Officer.

January 8, 1988.

[FR Doc. 88-626 Filed 1-11-88; 2:01 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 11, 18, 25, and February 1, 1988.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of January 11

No Commission Meetings

Week of January 18—Tentative

Wednesday, January 20

10:00 a.m.
Briefing on Status of Sequoyah Restart (Public Meeting)
2:00 p.m.
Briefing on NRC Technical Training Program (Public Meeting)

Thursday, January 21

2:00 p.m.
Briefing on Regulation of Transportation of Radioisotopes and Results of the Modal Study (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 25—Tentative

Tuesday, January 26

2:00 p.m.
Briefing by GE on New Standardized Plants (Public Meeting)

Thursday, January 28

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 1—Tentative

Tuesday, February 2

10:00 a.m.
Briefing on NRC Human Factors Programs (Public Meeting)
2:00 p.m.
Status of NRC Research Initiatives in Response to NAS Report (Public Meeting)

Wednesday, February 3

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for South Texas (Public Meeting) (Tentative)
2:00 p.m.
Briefing on Status of State, Local, and Indian Tribe Programs (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation session are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that

no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Andrew Bates, (202) 634–1410.

Andrew L. Bates,

Office of the Secretary.

January 7, 1988.

[FR Doc. 88–689 Filed 1–11–88; 4:00 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE, BOARD OF GOVERNORS

Vote to Close Meeting

During its January 4, 1988, meeting, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting. The portion to be closed was to involve a discussion concerning the extension of a contract for outside auditing services.

The Board determined, pursuant to 5 U.S.C. 552b(c)(9)(B), that the portion of the meeting to be closed was exempt from the open meeting requirement of the Sunshine Act on the grounds that the public interest did not require otherwise and that the portion to be closed was likely to disclose information whose premature disclosure was likely to significantly frustrate the negotiation of the proposed contract.

Prior to the January 4 meeting, the Board of Governors gave due notice of its intention to hold the meeting, the notice and the proposed agenda for the meeting having been published in the **Federal Register** on December 23, 1987, (FR 48621). On January 4, the Board determined by a unanimous vote that an addition to the agenda was required and that no earlier announcement of the new item was possible.

In accordance with 5 U.S.C. 552b(f)(1), the General Counsel of the United States Postal Service certified that in his opinion the portion of the meeting to be closed might properly be closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B).

The persons who attended this portion of the closed meeting were Board members Coughlin, Griesemer, Hall, McConnell, Nevin, Pace, Peters, Ryan, Setrakian and Tisch; Secretary for the Board Harris; and General Counsel Cox.

David F. Harris,

Secretary.

[FR Doc. 88–584 Filed 1–11–88; 10:10 am]

BILLING CODE 7710–12–M

POSTAL SERVICE BOARD OF GOVERNORS

VOTE TO CLOSE MEETING

At its meeting on January 4, 1988, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for February 1, 1988, at United States Postal Service headquarters, 475 L'Enfant Plaza SW., Washington, DC. The meeting will concern consideration of a proposed filing with the Postal Rate Commission regarding Express Mail service.

The meeting is expected to be attended by the following persons: Governors Griesemer, Hall, McConnell, Nevin, Pace, Peters, Ryan and Setrakian; Postmaster General Tisch; Deputy Postmaster General Coughlin; Secretary for the Board Harris; and General Counsel Cox.

The Board determined that, pursuant to section 552b(c)(4) of Title 5, United States Code, and §7.3(d) of Title 39, Code of Federal Regulations, the discussion of this matters is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose privileged market information pertinent to postal services. The Board also determined that pursuant to section 552b(c)(10) of Title 5, United States Code, and § 7.3(j) of Title 39, Code of Federal Regualtions, the discussion is exempt because it is likely to specifically concern the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation, pursuant to section 552b(c)(4) and (10) of Title 5, United States Code, and § 7.3 (d) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 88–655 Filed 1–11–88; 1:40 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on January 19, 1988, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Transfer of Functions
(3) Review of and Proposal for RRB Automation Efforts of August 31, 1987
(4) FTE Allocation for FY 88
(5) Repayment of the RUIA Loan
(6) Work Stoppage—Springfield Terminal Railway Company—November 12, 1987.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, FTS No. 386–4920.

Dated January 8, 1988.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 88–651 Filed 1–11–88; 1:14 pm]

BILLING CODE 7905–01–M

Corrections

Federal Register
Vol. 53, No. 8
Wednesday, January 13, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 87-28394 beginning on page 46813 in the issue of Thursday, December 10, 1987, make the following correction:

On page 46813, in the third column, in the 16th line, in the entry for Docket Number 88-027, Scripps Clinic and Research Foundation, after *Customs:*, insert the date "November 6, 1987."

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-free Entry of Scientific Instruments; Texas A & M University et al.

Correction

In notice document 87-28240 beginning on page 46639 in the issue of Wednesday, December 9, 1987, make the following correction:

On page 46640, in the first column, in the third complete paragraph, in the entry for the University of Nebraska, "*Docket Number:* 88-109" should read "*Docket Number:* 88-019."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-932-08-4220-10; F-14988]

Amended Proposed Withdrawal Application and Opportunity for Public Meeting; Alaska

Correction

In notice document 87-28307 beginning on page 46850 in the issue of Thursday, December 10, 1987, make the following correction:

On page 46851, in the first column, the land description is corrected to read as follows:

KATEEL RIVER MERIDIAN (UNSURVEYED)
T. 7 N., R. 25 E.,
Sec. 18, S½N½SW¼SW¼,
S½SW¼SW¼,
SW¼NW¼SE¼SW¼,
SW¼SE¼SW¼,
W½SE¼SE¼SW¼,
SE¼SE¼SE¼SW¼;
Sec. 19, W½NW¼NW¼NE¼,
SW¼NW¼NE¼,
W½SW¼NE¼, NW¼,
N½SW¼, N½SW¼SW¼,
N½NW¼SE¼SW¼,
NW¼NE¼SE¼SW¼,
NW¼NW¼SE¼,
NW¼SW¼NW¼SE¼,
those portions excluding PLO Nos. 1910 and 3942.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-940-08-4220-11; C-28292]

Proposed Continuation of Withdrawal; Colorado

Correction

In notice document 87-29526 beginning on page 48770 in the issue of Thursday, December 24, 1987, make the following corrections:

1. Correct the heading to read as set forth above.

2. On page 48770, in the third column, the land description for Gunnison National Forest should read as follows:
T. 14 S., R. 85 W.,
Sec. 23, SE¼NE¼SW¼,
S½NE¼NW¼SW¼, and
N½SE¼NW¼SW¼.

3. In the same column, in the last complete paragraph, in the third line, insert "Creek" after "Cement"; and in the sixth line, "form" should read "from".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 88-1]

Recordation of Trade Name; "Better Working Environments, Inc."

Correction

In notice document 88-64 appearing on page 193 in the issue of Tuesday, January 5, 1988, make the following correction:

In the heading, "[T.D. 38-1]" should read "[T.D. 88-1]".

BILLING CODE 1505-01-D

federal register

Wednesday
January 13, 1988

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 200, 215, 235, 236, 247, 812, 880, 881, 882, 883, 884, 886, and 912

Aliens; Withdrawal of Restrictions on the Use of Assisted Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 215, 235, 236, 247, 812, 880, 881, 882, 883, 884, 886 and 912

[Docket No. R-88-974; FR-1588]

Aliens; Withdrawal of Restrictions on the Use of Assisted Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule clarifies the status of the final rule published on April 1, 1986, concerning restrictions on providing housing assistance to ineligible aliens by removing the portions of the rule dealing specifically with aliens, which never have been made effective. To take the place of those provisions of the April 1, 1986, rule, the Department plans to publish a proposed rule to implement section 214 of the Housing and Community Development Act of 1980, as amended by section 329(a) of the Housing and Community Development Amendments of 1981, by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (IRCA), and by section 164 of the Housing and Community Development Act of 1987 (1987 Act).

EFFECTIVE DATE: March 15, 1988.

FOR FURTHER INFORMATION CONTACT: Sally Warner Watts, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500, (202) 755-7034, or Grady J. Norris, Assistant General Counsel for Regulations, at the same address, (202) 755-7055.

SUPPLEMENTARY INFORMATION:

Background

The April 1986 rule never has been made effective because of litigation and Congressional action. Since enactment of the Immigration Reform and Control Act, the April 1986 rule is outdated with respect to verification procedures and documentation. However, it has been codified in Title 24 of the Code of Federal Regulations. This final rule removes the alien restriction provisions of the April 1986 rule; it also removes from Parts 215 and 235 (governing the Rent Supplement and section 235 home ownership assistance programs) the provisions that purport to restrict eligibility of nonimmigrant student-aliens. This second removal action conforms Parts 215 and 235 to the parts governing all of the other covered programs, and it is consistent with the instructions concerning the effectiveness of restrictions on aliens contained in a Notice published on November 21, 1986 in the **Federal Register** concerning the April 1, 1986 rule. That Notice (51 FR 42088) discussed the causes for the delay in implementing the April 1986 rule and described the status of restrictions against providing housing assistance to aliens in the following terms (at 42089):

> It is the position of the Department that the statutory prohibition on housing assistance for illegal aliens, which is contained in section 214 as amended by the 1986 immigration reform legislation, is not self-implementing. Owners and PHAs may not take any action to deny or terminate assistance pursuant to section 214 before the effective date of a HUD regulation implementing this statute.

This rule confirms that status of implementation of section 214: until a subsequent final rule is issued, there are no HUD restrictions against the use of assisted housing by aliens, and managers of HUD-assisted housing are not authorized to collect information concerning the citizenship or alien status of applicants or participants.

History

Section 214 of the Housing and Community Development Act of 1980, as amended, prohibits the Secretary from making financial assistance available under the United States Housing Act of 1937 (Public and Indian Housing and Section 8 Housing Assistance), sections 235 and 236 of the National Housing Act (Homeownership and Interest Reduction programs, respectively) or section 101 of the Housing and Urban Development Act of 1965 (Rent Supplement), for the benefit of an alien who is not a lawful permanent resident of the United States or an alien whose unlawful residence since before January 1, 1982 has been adjusted to that of a lawful temporary resident (under section 245A of the Immigration and Nationality Act).

Section 214 was originally enacted in 1980. The 1980 statute prohibited HUD from providing housing assistance to "nonimmigrant student-aliens." HUD implemented the statute by issuing regulations providing that, in the covered programs, nonimmigrant student-aliens were ineligible for assistance. A definition of "nonimmigrant student-aliens" was added to all the appropriate program regulations. When section 214 was revised by Congress in 1981, nonimmigrant student-aliens no longer were specifically mentioned. Instead of naming one category of aliens who were not to receive assistance, the revised statute provides that no aliens except those listed in the statute (as lawful permanent residents) were to be eligible for assistance. Nonimmigrant student-aliens are not included in any of the eligible categories, and therefore are ineligible under the statute for assistance. When effective regulations are issued to implement section 214, as amended, the statutory prohibition against the Secretary providing assistance for ineligible categories will be implemented.

To implement the 1981 changes, a proposed rule was published on May 3, 1982 (47 FR 18914), amending regulations for the various housing programs affected. A final rule was published on October 4, 1982, but it stated that notice of the effective date would be published in the future in the **Federal Register**. Before that rule was made effective, Congress enacted a provision (in 1983) barring HUD from implementing that rule for a one-year period (section 474(e) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983). After the one-year period expired, the Department decided to make changes to the rule.

On April 1, 1986, the Department published a revised final rule (51 FR 11198) to implement section 214. Corrections and technical amendments to that rule were published on April 25, 1986 (51 FR 15611), July 16, 1986 (51 FR 25687), July 28, 1986 (51 FR 26876), and September 29, 1986 (51 FR 34570).

The most recent publication with respect to the April 1, 1986 rule, as revised, was the Notice published in the **Federal Register** on November 21, 1986 (51 FR 42088), deferring the effective date of the rule "until at least October 1, 1987." That Notice referred to Congressional actions that required delay in implementing the final rule. The HUD Appropriations Act for Fiscal Year 1987 had provided that no funds appropriated by that Act or any other Act could be used in Fiscal Year 1987 to implement or enforce the regulations published on April 1, 1986, and the enactment of IRCA required changes in verification procedures for the status of all applicants and tenants. The Notice stated that the April 1986 rule would not be made effective until after promulgation of revisions (and solicitation of public comment thereon) to implement changes required by the Immigration Reform and Control Act of 1986. After publication of the Notice, a court order was entered in a national class action on December 18, 1986 by a United States District Court preliminarily enjoining HUD from implementing the April, 1 1986 rule, *Yolano-Donnelly Tenants' Association*

v. *Pierce* (E.D. Cal., No. CIV S–86–846–MLS).

In recognition that the nonimmigrant student-alien restriction had been replaced by a broader restriction (which the Department has been unable to implement) and that denial or termination of assistance under section 214 must be in accordance with IRCA, many provisions dealing with the subject of nonimmigrant student-aliens scattered throughout existing program regulations were removed in the course of amending those rules for other purposes. (See the final rule on income definition published on June 16, 1986 (51 FR 21850), removing the reference to nonimmigrant student-aliens from the section dealing with occupancy requirements (§ 236.70) and from definitions §§ 215.1 and 236.2; the final rule on Shared Housing published on June 11, 1986 (51 FR 21300), removing from § 812.2 the definition of nonimmigrant student-alien and the provision in the definition of a "family" that had disqualified households which included a nonimmigrant student-alien; and the final technical amendment to the income definition rules published on September 9, 1987 (51 FR 34108), amending the definition of "family" found in § 912.2 in the same way.) References to nonimmigrant student-aliens did remain, however, in §§ 215.20(b)(2), 235.5(g), 235.10(e), 235.325(c) and 235.375 (a)(1), (a)(5) and (e).

Purpose of This Rule

The principal purpose of this rule is to remove the restrictions concerning aliens published in the April 1, 1986 rule and to restore the program regulations to their pre-April 1986 state. The primary exception to restoration is to remove the remaining vestiges of the prohibition that was directed to nonimmigrant student-aliens only. The other type of exception to restoration is the preservation of non-alien changes to the affected program regulations made by the April 1986 rule. This rule removing the ineffective alien provisions and largely restoring the program rules to their pre-April 1986 condition will permit consideration anew of the entire subject, including the effect of the IRCA changes and the 1987 Act changes.

Description of Specific Changes

1. Part 200

Subpart G, consisting of §§ 200.180–200.184, was added by the April 1986 rule and has no effect other than to implement the restriction on assistance to aliens. This rule removes and reserves Subpart G in its entirety.

2. Part 215

The change made in § 215.1 by the April 1986 rule was to remove the definition of nonimmigrant student-alien. However, that change also was made independently by a subsequent rule concerning the definition of income published on June 16, 1986 (51 FR 21853). Consequently, the withdrawal of the April rule has no effect on § 215.1.

The April 1986 rule revised § 215.20(b) to change the disqualification of nonimmigrant student-aliens to a reference to the restrictions on eligibility found in Subpart G of Part 200. This rule removes and reserves paragraph (b)(2) of § 215.20. A sentence added by the April 1986 rule to § 215.55(a) requiring owners to obtain information about the citizenship or eligible alien status of applicants and tenants was purportedly removed by a final rule (June 16, 1986, 51 FR 21857) as corrected (September 30, 1986, 51 FR 34590). However, the language still appears in Title 24 of the Code of Federal Regulations (CFR), so this rule removes it.

3. Part 235

Paragraph (f) was added to § 235.2 by the April 1986 rule. This rule removes and reserves that paragraph. Paragraph (g) of § 235.5, defining the term nonimmigrant student-alien, was removed by the April 1986 rule. Instead of restoring that paragraph, this rule confirms and makes effective its removal, to make it consistent with the other parts affected by the alien restrictions. Similarly, paragraph (e) of § 235.10, which prohibits endorsement of mortgage insurance where the mortgagor is a nonimmigrant student-alien, was removed by the April 1986 rule. This rule confirms and makes effective the removal of that paragraph.

Section 235.13 was added by the April 1986 rule to specify when a person seeking the benefits of mortgage insurance under this program must provide evidence of citizenship or eligible alien status. This rule removes and reserves that section.

Section 235.325, defining eligible cooperative members, was amended by the April 1986 rule by removing paragraph (c), which disqualifies nonimmigrant student-aliens. This rule confirms and makes effective the removal of that paragraph.

Section 235.375 specifies when assistance terminates under the program. There are three references to nonimmigrant student-aliens in that section (paragraphs (a)(1), (a)(5), and (e)), which the April 1986 rule removed. This rule confirms and makes effective their removal.

4. Part 236

The April 1986 rule made two amendments to Part 236 which were affected by intervening amendments. The amendments are the addition of a paragraph (c) to the definition of "qualified tenant" in § 236.2, and the addition of a sentence in paragraph (a) of § 236.80, referring to Subpart G of Part 200, which was added by the April 1986 rule. The final income definition rule published on June 16, 1986 (51 FR 21850) as corrected on September 30, 1986 (51 FR 34590) purported to remove both of these references. Although the reference in § 236.2 was removed from the CFR as a result of that rulemaking, the CFR still contains the reference in § 236.80, so this rule removes it.

One other reference to Subpart G of Part 200 was added to Part 236 by the April 1986 rule, and subsequently has not been removed: a sentence was added to the end of § 236.710. This rule removes that sentence.

5. Part 247

This part governs termination of occupancy of tenants in projects subsidized by HUD. In § 247.3, dealing with entitlement to occupancy, the April 1986 rule revised paragraph (c) to specify that a tenant's failure to submit information on income and composition of the household—including citizenship or eligible alien status—constituted material noncompliance with the rental agreement. This rule removes the portion of that revised language that refers to citizenship or alien status, but makes effective the remainder of the revised paragraph.

6. Part 812

The April 1986 rule revised § 812.1, Purpose and Applicability, to update it and to indicate that this part implements the restrictions on assistance to ineligible aliens. This rule removes paragraph (a)(3), which mentions aliens, but otherwise confirms and makes effective that revision. Section 812.2, Definitions, was revised by the April 1986 rule to alphabetize all definitions and to expand the definitions to include terms related to the restrictions on aliens. The rule was subsequently revised to alphabetize the list of definitions, but it did not include the alien-related terms. This rule simply removes the April 1986 version with the alien-related terms.

Sections 812.5, 812.6, and 812.7 were added in their entirety by the April 1986 rule to specify the types of evidence of citizenship or eligible alien status, the times for submission of such evidence, the type of notice to be given that a

submission is required, and the types of actions of conferring assistance that cannot be taken without receipt of proper evidence of eligible status. Those sections are being removed and reserved by this rule.

7. Parts 880 and 881

Section 880.504 and the corresponding section of Part 881 were amended by the April 1986 rule by adding a paragraph (e), requiring termination of assistance for failure to submit evidence of citizenship or eligible alien status. This rule removes that paragraph from the two sections.

Paragraph (b) of the corresponding .601 sections was revised by the April 1986 rule to list some of the management and maintenance functions of owners of section 8 New Construction and Substantial Rehabilitation housing projects. This rule amends that paragraph of the two sections by removing the reference to obtaining evidence of citizenship or eligible alien status, and makes that amended provision effective.

The April 1986 rule added a sentence referring to submission of evidence of citizenship or eligible alien status, in accordance with applicable requirements of Part 812, to paragraphs (c)(1) and (c)(3) of the corresponding .603 sections. This rule removes those references.

In § 880.607 and the corresponding section in Part 881, dealing with termination of tenancy, the April 1986 rule revised paragraph (b)(3) to specify that failure to submit information on income and composition of the household—including citizenship or eligible alien status—constituted material noncompliance with the rental agreement. This rule removes the portion of that paragraph that refers to citizenship or alien status, but makes effective the remainder of the revised language.

8. Part 882

The April 1986 rule revised § 882.116, Responsibilities of the PHA, to be more specific about the steps to take to assure adequate information about applicants' eligibility. This rule makes the new language effective but removes the language concerning citizenship or eligible alien status, leaving no authority for PHAs or owners to inquire about applicants or participants' citizenship or alien status.

Paragraph (a)(1) of § 882.118, Obligations of the Family, was revised by the April 1986 rule, by adding evidence of citizenship or eligible alien status to the list of information to be submitted by the family. This rule makes the revised language effective but removes the reference to evidence of eligible status and the obligation of families to submit any such evidence.

The April 1986 rule revised paragraphs (a)(2), (a)(7) and (m)(1), and added a new paragraph (k)(4) to § 882.209, Selection and Participation—to add references to requirements for submission of evidence of eligible status. The reference in paragraph (a)(7) was removed by a correction document (51 FR 25689). This rule removes the remaining references, including paragraph (k)(4) in its entirety.

Section 882.210, Grounds for Denial or Termination of Assistance, was amended by the April 1986 rule by adding a paragraph (e) referring to the provisions of §§ 882.118 and 812.7 regarding submission of evidence of eligible status. This rule removes paragraph (e).

Section 882.212, Reexamination of Family Income and Composition, was amended by the April 1986 rule by adding a sentence at the end of paragraphs (a) and (c) dealing with submission of evidence of eligible status. This rule removes the sentence from each of those paragraphs.

The April 1986 rule revised § 882.514, Family Participation, by adding language to paragraph (a)(1) about the PHA's obligation to obtain evidence of an applicant's citizenship or eligible alien status. This rule removes this added language, but otherwise makes the revision effective.

A sentence cross-referencing provisions in Part 812 dealing with evidence of eligible status was added by the April 1986 rule to paragraphs (a) and (c) of § 882.515, Reexamination of Family Income and Composition. This rule removes the cross-references from both paragraphs.

9. Part 883

A new paragraph (e) was added by the April 1986 rule to § 883.605, Leasing to Eligible Families, to address the issue of termination of assistance for failure to submit proper evidence of eligible status. This rule removes that paragraph.

Paragraph (b) of § 883.702, Responsibilities of Owner, was revised by the April 1986 rule to list some of the management and maintenance functions of owners of Section 8 State Housing Agency housing projects. This rule amends that paragraph by removing the reference to obtaining evidence of citizenship or eligible alien status, and makes the amended provision effective.

A sentence cross-referencing provisions in Part 812 dealing with evidence of eligible status was added by the April 1986 rule to paragraphs (c)(1) and (c)(3) of § 883.704, Selection and Admission of Tenants. This rule removes the cross-references from both paragraphs.

In § 883.708, dealing with termination of tenancy, the April 1986 rule revised paragraph (b)(3) to specify that failure to submit information on income and composition of the household—including citizenship or eligible alien status—constituted material noncompliance with the rental agreement. This rule removes the portion of that paragraph that refers to citizenship or alien status, but makes effective the remainder of the revised language.

10. Part 884

The April 1986 rule revised paragraphs (a)(3) and (a)(7) of § 884.118, Responsibilities of the Owner, to refer to the owner's obligation to obtain proper evidence of citizenship or eligible alien status. This rule amends the revised language to remove those references.

A sentence cross-referencing provisions in Part 812 dealing with evidence of eligible status was added by the April 1986 rule to § 884.216 and to paragraphs (a) and (c) of § 884.218. This rule removes the cross-references from those locations.

A new paragraph (e) was added by the April 1986 rule to § 884.223, Leasing to Eligible Families, to address the issue of termination of assistance for failure to submit proper evidence of eligible status. This rule removes that paragraph.

11. Part 886

Paragraph (a)(3) of § 886.119, Responsibilities of the Owner, was revised by the April 1986 rule to list some of the management and maintenance functions of owners of section 8 New Construction housing projects administered by the Farmers Home Administration of the Department of Agriculture. This rule amends that paragraph by removing the reference to obtaining evidence of citizenship or eligible alien status, and makes the amended provision effective.

A new paragraph (e) was added by the April 1986 rule to § 886.129, Leasing to Eligible Families, to address the issue of termination of assistance for failure to submit proper evidence of eligible status. This rule removes that paragraph.

In § 886.328, dealing with termination of tenancy, the April 1986 rule revised paragraph (b)(3) to specify that failure to submit information on income and composition of the household—including citizenship or eligible alien status—

constituted material noncompliance with the rental agreement. This rule removes the portion of that paragraph that refers to citizenship or alien status, but makes effective the remainder of the revised language.

A new paragraph (e) was added by the April 1986 rule to § 886.329, Leasing to Eligible Families, to address the issue of termination of assistance for failure to submit proper evidence of eligible status. This rule removes that paragraph.

12. Part 912

The changes made in Part 812 by the April 1986 rule described above were also made in corresponding sections of Part 912. Consequently, the remedial changes made by this rule to those sections of Part 912 are the same as described for Part 812.

Justification for Final Rule

It is the policy of this Department to publish for comment, rules relating to public property, loans, grants, benefits, or contracts, despite the exemption contained in 5 U.S.C. 553 from the requirement to solicit public comment for these rules. However, under 24 CFR Part 10, the Department may omit solicitation of public comment before publishing a final rule, in a particular case, if such comment is not required by statute and solicitation and consideration of public comment are "impracticable, unnecessary or contrary to the public interest."

In this case, the withdrawal of the April 1986 rule and the removal from the Code of Federal Regulations of its provisions concerning aliens, which never have been made effective merely serves as public notice that the rule will not be made effective as previously published—and, indeed, could not be made effective because of the preliminary injunction entered December 18, 1986 in the *Yolano* litigation—and that a new rule on which comment will be solicited will be published in the Department's efforts to implement the requirements of section 214 of the Housing and Community Development Act of 1980, as amended. The removal of these ineffective provisions and of other ineffective provisions dealing with nonimmigrant student-aliens does not, in effect, alter the status quo. Far from imposing any new regulatory requirements, this rule wipes the slate clean for new action. Therefore, prior notice and comment are unnecessary.

Findings and Certifications

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item number 923 in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358, 40369), under Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities since its effect is merely to clarify that there are no currently effective restrictions on providing housing assistance to ineligible aliens.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321–4347), since the withdrawal of a rule that has not yet been made effective has no real impact on program applicants and participants.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Loan programs: housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agenices), Reporting and recordkeeping requirements.

24 CFR Part 215

Grant programs: housing and community development, Rent subsidies.

24 CFR Part 235

Condominiums, Cooperatives, Grant programs: housing and community development, Homeownership, Low and moderate income housing, Mortgage insurance.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Projects, Rent subsidies, Taxes, Utilities.

24 CFR Part 247

Low and moderate income housing, Public housing, Tenant eviction.

24 CFR Part 812

Low and moderate income housing.

24 CFR Part 880

Grant programs: housing and community development, Low and moderate income housing, New construction, Rent subsidies.

24 CFR Part 881

Grant programs: housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 882

Grant programs: housing and community development, Housing, Low and moderate income housing, Mobile homes, Rent subsidies.

24 CFR Part 883

Grant programs: housing and community development, Low and moderate income housing, New construction and substantial rehabilitation, Rent subsidies.

24 CFR Part 884

Grant programs: housing and community development, Low and moderate income housing, Rent subsidies, Rural areas.

24 CFR Part 886

Grant programs: housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 912

Low and moderate income housing.

For the reasons set forth in the preamble, the Department withdraws the final rule concerning Restrictions on the Use of Assisted Housing affecting 24 CFR Parts 200, 215, 235, 236, 247, 812, 880, 881, 882, 883, 884, 886 and 912 and amends those parts as follows:

PART 200—INTRODUCTION

1. The authority citation for Part 200 continues to read as follows:

Authority: Titles I and II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§§ 200.180 through 200.184 [Removed and Reserved]

2. Subpart G consisting of §§ 200.180 through 200.184, is removed and reserved.

PART 215—RENT SUPPLEMENT PAYMENTS

3. The authority citation for Part 215 continues to read as follows:

Authority: Sec. 101(g), HUD Act of 1965 (12 U.S.C. 1701s); section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 215.20 [Amended]

4. Section 215.20 is amended by removing paragraph (b)(2) of the rule currently in effect (and as published on April 1, 1986, 51 FR 11218), and that paragraph is reserved.

§ 215.55 [Amended]

5. Section 215.55 is amended by removing the second sentence of paragraph (a) as published on June 16, 1986 (51 FR 21857).

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

6. The authority citation for Part 235 is revised to read as follows:

Authority: Secs. 211 and 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 235.2 [Amended]

7. Section 235.2 is amended by removing and reserving paragraph (f).

§ 235.5 [Amended]

8. Section 235.5 is amended by removing paragraph (g).

§ 235.10 [Amended]

9. Section 235.10 is amended by removing paragraph (e).

§ 235.13 [Removed and reserved]

10. Section 235.13 is removed and reserved.

§ 235.325 [Amended]

11. Section 235.325 is amended by removing paragraph (c).

§ 235.375 [Amended]

12. Section 235.375 is amended by removing the second sentence of paragraph (a)(1), by removing paragraph (a)(5) in its entirety, and by removing the last sentence in paragraph (e).

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

13. The authority citation for Part 236 continues to read as follows:

Authority: Secs. 211 and 236, of the National Housing Act (12 U.S.C. 1715b, 1715z–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 236.80 [Amended]

14. Section 236.80 as published on June 16, 1986 (51 FR 21861) is amended by removing the second sentence of paragraph (a).

§ 236.710 [Amended]

15. Section 236.710 is amended by removing the last sentence.

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

16. The authority citation for Part 247 continues to read as follows:

Authority: Sec. 7(d), Department of HUD Act; (42 U.S.C. 3535(d)).

§ 247.3 [Amended]

17. Section 247.3(c) published April 1, 1986 (51 FR 11219) is made effective and the second sentence is amended by removing the parenthetical phrase.

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

18. The authority citation for Part 812 continues to read as follows:

Authority: Sec. 3, U.S. Housing Act of 1937 (42 U.S.C. 1437a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 812.1 [Amended]

19. Section 812.1 published on April 1, 1986 (51 FR 11219) is made effective; paragraph (a)(1) is amended by adding the word "and" at the end; paragraph (a)(2) is amended by inserting a period before the semicolon and by removing the word "; and" at the end; and paragraph (a)(3) is removed.

§ 812.2 [Removed]

20. Section 812.2 published on April 1, 1986 (51 FR 11219) is removed.

§§ 812.5, 812.6, 812.7 [Removed and reserved]

21. Sections 812.5, 812.6, and 812.7 are removed and reserved.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

22. The authority citation for Part 880 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 880.504 [Amended]

23. Section 880.504 is amended by removing paragraph (e).

§ 880.601 [Amended]

24. Paragraph (b) of § 880.601 published on April 1, 1986 (51 FR 11224) is made effective, and the words "obtaining evidence of citizenship or eligible alien status from the family," are removed from the second sentence.

§ 880.603 [Amended]

25. Section 880.603 is amended by removing the last sentence from paragraph (c)(1) and from paragraph (c)(3).

§ 880.607 [Amended]

26. Paragraph (b)(3) of § 880.607 published on April 1, 1986 (51 FR 11225) is made effective, and the parenthetical phrase is removed from the second sentence.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

27. The authority citation for Part 881 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 881.504 [Amended]

28. Section 881.504 is amended by removing paragraph (e).

§ 881.601 [Amended]

29. Paragraph (b) of § 881.601 published on April 1, 1986 (51 FR 11225) is made effective, and the words "obtaining evidence of citizenship or eligible alien status from the family," are removed from the second sentence.

§ 881.603 [Amended]

30. Section 881.603 is amended by removing the last sentence from paragraph (c)(1) and from paragraph (c)(3).

§ 881.607 [Amended]

31. Paragraph (b)(3) of § 881.607 published on April 1, 1986 (51 FR 11225) is made effective, and the parenthetical phrase is removed from the second sentence.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

32. The authority citation for Part 882 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 882.116 [Amended]

33. Paragraph (c) of § 882.116 published on April 1, 1986 (51 FR 11225) is made effective, and the words "for obtaining evidence of citizenship or eligible alien status from a Family, and" are removed from the second sentence. Paragraph (m) is amended by inserting a semicolon after the first occurrence of the word "chapter" and by removing the subsequent phrase", and obtaining evidence of citizenship or eligible status from the Family in accordance with Part 812 of this chapter."

§ 882.118 [Amended]

34. Paragraph (a)(1) of § 882.118 published on April 1, 1986 (51 FR 11225) is made effective, and the words "submission of required evidence of citizenship or eligible alien status, and" are removed.

§ 882.209 [Amended]

35. Section 882.209 published on April 1, 1986 (51 FR 11226) is made effective but is amended by removing paragraph (k)(4); and by removing paragraph (ii) from paragraph (a)(2) and redesignating paragraph (iii) of parargaph (a)(2) as paragraph (ii) and by amending (a)(2)(i) by adding the word "and" at the end.

§ 882.210 [Amended]

36. Section 882.210 is amended by removing paragraph (e).

§ 882.212 [Amended]

37. Section 882.212 is amended by removing the last sentence from paragraph (a) and from paragraph (c).

§ 882.514 [Amended]

38. Paragraph (a)(1) of § 882.514 published on April 1, 1986 (51 FR 11226) is made effective, and the words "for obtaining evidence of citizenship or eligible alien status from a Family, and" are removed.

§ 882.515 [Amended]

39. Section 882.515 is amended by removing the last sentence from paragraph (a) and from paragraph (c).

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

40. The authority citation for Part 883 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 883.605 [Amended]

41. Section 883.605 is amended by removing paragraph (e).

§ 883.702 [Amended]

42. Paragraph (b) of § 883.702 published on April 1, 1986 (51 FR 11226) is made effective, and the words "obtaining evidence of citizenship or eligible alien status from a family," are removed.

§ 883.704 [Amended]

43. Section 883.704 is amended by removing the last sentence from both paragraph (c)(1) and paragraph (c)(3).

§ 883.708 [Amended]

44. Paragraph (b)(3) of § 883.708 published on April 1, 1986 (51 FR 11227) is made effective, and the second sentence of paragraph (b)(3) is amended by removing the parenthetical phrase.

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

45. The authority citation for Part 884 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 884.118 [Amended]

46. Paragraphs (a)(3) and (a)(7) of § 884.118 published on April 1, 1986 (51 FR 11227) are made effective; paragraph (a)(3) is amended by removing the comma following the word "Family" and inserting the word "and" in its place, and by removing the words ", and has submitted required evidence of citizenship or eligible alien status in accordance with Part 812"; and paragraph (a)(7) is amended by removing the words ", and obtaining evidence of citizenship or eligible alien status from a Family at annual reexamination in accordance with Part 812".

§ 884.216 [Amended]

47. Section 884.216 is amended by removing the last sentence.

§ 884.218 [Amended]

48. Section 884.218 is amended by removing the last sentence from both paragraph (a) and paragraph (c).

§ 884.223 [Amended]

49. Section 884.223 is amended by removing paragraph (e).

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

50. The authority citation for Part 886 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 886.119 [Amended]

51. Paragraphs (a)(3) and (a)(7) of § 886.119 published on April 1, 1986 (51 FR 11227) are made effective; paragraph (a)(3) is amended by removing the comma following the word "Family" and inserting the word "and" in its place, and by removing the words ", and has submitted required evidence of citizenship or eligible alien status in accordance with Part 812"; and paragraph (a)(7) is amended by removing the words ", and obtaining evidence of citizenship or eligible alien status from a Family at annual reexamination in accordance with Part 812".

§ 886.129 [Amended]

52. Section 886.129 is amended by removing paragraph (e).

§ 886.328 [Amended]

53. Paragraph (b)(3) of § 886.328 published on April 1, 1986 (51 FR 11228) is made effective, and the second sentence is amended by removing the parenthetical phrase.

§ 886.329 [Amended]

54. Section 886.329 is amended by removing paragraph (e).

PART 912—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

55. The authority citation for Part 912 is revised to read as follows:

Authority: Secs. 3, U.S. Housing Act of 1937 (42 U.S.C. 1437a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 912.1 [Amended]

56. Section 912.1 is published on April 1, 1986 (51 FR 11228) is made effective and paragraph (a)(3) is removed. Paragraph (a)(2) is amended by removing the word "and" at the end and changing the semicolon to a period.

§§ 912.5, 912.6, and 912.7 [Removed and reserved]

57. Sections 912.5, 912.6, and 912.7 published on April 1, 1986 (51 FR 11229) are removed and reserved.

December 30, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 88-447 Filed 1-12-88; 8:45 am]

BILLING CODE 4210-32-M

federal register

Wednesday
January 13, 1988

Part III

Environmental Protection Agency

40 CFR Part 373

Reporting Hazardous Substance Activity When Transferring Federal Real Property; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 373

[SWH FRL-3279-9]

Reporting Hazardous Substance Activity When Transferring Federal Real Property

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing regulations in response to requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499). Under section 120(h), whenever, any agency, department, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States, and on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, the contract must include notice of the type and quantity of such hazardous substance, and the time at which such storage, release, or disposal took place. EPA is to prescribe the form and manner of such notice. Today's notice would define when these requirements apply, as well as prescribe the form and manner of notice, as required by section 120(h).

DATE: Comments on this proposed rule must be received on or before February 12, 1988.

ADDRESSES: Commenters must each send an original and two copies of their comments to EPA Superfund Docket (WH-562), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Place the Docket Number 120FP-TR on the comments. The docket is located in the EPA Superfund Docket Room (LG 100), 401 M Street SW., Washington DC 20460. The docket is open from 9:00 to 4:00, Monday through Friday except for public holidays. To review docket materials, make an appointment by calling 202-382-3046. The public may obtain copies of docket materials as provided for in 40 CFR Part 2. A fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/CERCLA Hotline at 1-800-424-9346 (toll-free) or in the Washington Metropolitan Area at 202-382-3000. For information on specific aspects of this proposed rule, contact Richard Dailey, Office of Waste Programs Enforcement (WH-527), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202-382-5647.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

A. Statutory Authority

The Superfund Amendments and Reauthorization Act (SARA), Pub. L. 99-499, amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.* SARA added section 120(h)(1) of CERCLA which states that "* * * whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more, known to be released, or disposed of, the head of such department, agency, or instrumentality shall include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files." Section 120(h)(2) requires the Environmental Protection Agency (EPA) to promulgate regulations specifying the form and manner of such notice no later than 18 months after enactment of SARA or, in other words, by April 17, 1988. The notice requirement goes into effect six months after the effective date of the regulation.

In addition to the notice requirements specified by section 120(h)(1) described above, section 120(h)(3)(B) requires covenants to be included in deeds transferring certain property owned by the United States. Specifically, in the case of any real property owned by the United States on which any hazardous substance was stored for one year or more, known to have been released or disposed of, each deed entered into for transfer of the property by the United States to any other person or entity must contain covenants warranting that (1) all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of transfer; and (2) any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States. However, this provision does not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such real property. There is no statutory requirement that EPA promulgate rules to implement the requirements for deeds in CERCLA section 120(h)(3), and EPA does not plan to issue such rules.

B. Interagency Coordination

The statute specifies that EPA is to develop the notice regulations required by section 120(h)(2) in consultation with the Administrator of the General Services Administration (GSA). The Agency has worked closely with GSA in the development of this proposal, and will continue to consult with GSA throughout the rulemaking process. Additionally, EPA has solicited information and comment from other potentially affected agencies. EPA encourages any affected agencies of the United States that have not been consulted to contact the person named above under the section titled "**FURTHER INFORMATION,**" and to comment on the specific provisions of this proposal.

II. Content of the Rule

Section 120(h) of CERCLA states that its requirements apply to the sale or other transfer of real property owned by the United States by any department, agency, or instrumentality of the United States. As noted above, section 120(h) requires EPA to consult with the General Services Administration (GSA) in the development of these rules. Such consultation is appropriate because, in many cases, GSA serves as the agency through which other federal agencies transfer or convey title to their real property. However, it is important to note that many agencies have independent authority to dispose of their own real property as well; today's

proposed rules would apply to all agencies, departments or instrumentalities of the United States involved in the sale or other transfer of real property. It should be noted that EPA presumes that the term "transfer" in the statute is used pursuant to its definition in the Federal Property Management Regulations found at 41 CFR 101–47, and that today's proposed regulations apply to agencies undertaking the activity defined therein.

A. Definition of "Department, Agency, or Instrumentality"

For the purposes of this rule, "department, agency, or instrumentality of the United States" means those entities or organizations created or chartered by the legislative, executive or judicial branches of the federal government, including those corporations that are chartered by the federal government.

B. The Concept of "Real Property"

The concept of real property has evolved over hundreds of years and, is generally used to "designate both things which are permanent, fixed, and immovable, as lands, and rights arising out of, or connected with, lands; and includes land and whatever is affixed thereto, and rights arising out of, or annexed to or exercisable within or about, the land (73 C.J.S. *Property* section 16, 1985). The Federal Acquisition Regulation, developed in accordance with the requirements of the Office of Federal Procurement Policy Act of 1974, as amended by Pub. L. 96–83, defines real property as "land and rights in land, ground improvements, utility distribution systems and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment."

C. Proposed Exclusion for Residential Property

Because section 120(h) states that its requirements apply to any real property "owned" by the United States, the requirements of this section appear to extend to property that federal agencies own because they lent funds or guaranteed certain loans, and then acquired the property after default through foreclosure. Agencies which may take title to real property through foreclosure include, among others, the Small Business Administration (SBA), the Economic Development Administration (EDA), the Farmers Home Administration (FmHA), the Veterans Administration (VA), and the Federal Housing Administration (FHA).

While there is a paucity of legislative history on section 120(h), EPA believes that it is unlikely that Congress intended the notice and covenant requirements of this section apply to properties obtained by the United States through foreclosure and held in a custodial manner until sale. Nevertheless, EPA believes that the statute and the requirements proposed today should apply to some of those properties. For example, EPA believes that it is appropriate to apply section 120(h) to agencies such as the FmHA, when it acquires farm property on which pesticides or other chemicals may have been disposed, or the SBA, EDA, or any other agency when it takes title to a commercial or industrial interest with previous hazardous substance activity. Because EPA believes that the types of properties described above have the potential to present a threat to human health and the environment, the Agency also believes that compliance with the proposed regulations is both prudent and appropriate.

However, the FmHA, VA, and FHA acquire through foreclosure and subsequently sell or transfer over 125,000 pieces of property per year that are exclusively residential. The EPA expects that most small, residential properties would not be the site of any significant hazardous substances activity, and that any protection that may be afforded human health and the environment by application of the statute to such properties would be minimal. Additionally, the Agency believes that the record-checking and notice requirements for the volume of properties transferred by these agencies would be unnecessarily burdensome, and that, in any case, the statute was probably not intended to cover these types of properties.

Based on these considerations, EPA today is proposing to exclude from the notice requirements specified in section 120(h)(2) certain small, residential properties that are acquired and sold by agencies such as the VA, FHA, and the FmHA.

EPA has examined a provision in a Commonwealth of Massachusetts proposed Senate bill (no. 2054) that excluded residential property from hazardous substance disclosure and liability requirements of the Massachusetts Superfund law. As in the Massachusetts bill, EPA today proposes to exclude from the section 120(h)(2) notice requirement those properties that are owned by the United States as a result of foreclosure, and that are one- to four-family residences that are used to provide not more than four dwelling units, including accessory land, and buildings or improvements incidental to such dwellings. EPA believes that using this definition for the proposed exclusion for residential property is appropriate, because it is consistent with the fact that the Department of Housing and Urban Development (HUD) considers one-to-four family unit dwellings as single family residences for the purposes of mortgage insurance under the National Housing Act of 1939.

While not required to act on any aspect of the section 120(h)(3) covenant requirements, EPA presumes that exclusion from the notice requirements of 120(h)(1) would extend an exclusion to the covenants required under 120(h)(3).

The EPA requests comment on whether it is appropriate to exclude certain federally-owned, residential properties from the requirements of section 120(h), and if so, whether the Agency's proposed approach is reasonable. EPA also requests comment on whether it is reasonable to conclude that any exclusions from the requirements of section 120(h)(1) extend to the requirements of 120(h)(3).

D. Requirement to Search Agency Files

As stated above, section 120(h)(1) provides that any contract to sell or transfer property owned by the United States shall give notice of the type and quantity of any hazardous substances that have been stored for one year or more, known to have been released, or disposed of, and the time that such storage, release, or disposal took place, "to the extent that such information is available on the basis of a complete search of agency files." EPA today proposes that, for the purposes of this rule, a "complete search of agency files" shall consist of a thorough review by the transferring agency of any and all files and records (including archives) held by the agency and, if applicable, the parent agency, that relate to the present or past use(s) of the real property that is being sold or transferred. The transferring agency shall make a diligent effort to examine all relevant files by searching the areas where files relating to the use and history of the property are normally kept, with particular emphasis upon records held or obtainable without undue burden that relate to the environmental compliance obligations of the owner of the realty as discharged by or on behalf of the selling or transferring agency. EPA requests comment on this proposed definition.

E. Definition of "Hazardous Substances"

Section 120(h) refers to the storage, release, and disposal of "hazardous substances." Section 101(14) of the Act defines a set of "hazardous substances" by reference to substances designated by EPA under other environmental statutes. EPA's list currently contains 717 substances. The Agency may designate additional substances as hazardous under section 1092 of CERCLA.

F. Definitions of the Terms "Storage, Release, and Disposal"

1. Definition of "Storage"

CERCLA does not define the term "storage." However, the Resource Conservation and Recovery Act (RCRA) defines storage for the purposes of hazardous waste management. For the purposes of implementing section 120(h), EPA today proposes to use the RCRA definition of the term "storage" by substituting the word "substances" for the word "wastes," wherever the latter appears in the RCRA definition. In other words, for the purposes of today's rule, the term "storage" is defined as the holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.

2. Storage Trigger

Section 120(h) requires notice of the storage of hazardous substances only if those substances have been stored for more than one year. In this notice, EPA is proposing a quantitative "trigger" for the storage reporting requirement as well. In other words, section 120(h) would only apply when hazardous substances were stored in quantities greater than a specified amount (for more than one year). EPA believes that requiring federal agencies disposing of real property to report on very small quantities of hazardous substances that have been stored on the property would be burdensome that probably would not contribute significantly to the protection of human health and the environment. Additionally, the Agency believes that the storage of hazardous substances is not tantamount to their release and/or disposal and, in turn, may present less of an environmental threat. EPA believes that this position is consistent with, and logically derives from, the statutory language found in section 3001(d)(6) of the Resource Conservation and Recovery Act (RCRA). Section 3001(d)(6) of RCRA outlines the storage, treatment, and disposal requirements for generators of small quantities of hazardous waste; that is, those entities that generate between 100 and 1000 kilograms (kg) per month of hazardous waste. By statute, small quantity generators may store 6000 kilograms of hazardous waste on-site for up to 180 days (or 270 days if the generator must ship or haul such wastes over 200 miles) without submitting an application for a permit to become an interim storage facility. Since these limits on storage are statutory, it appears that Congress did not consider the storage of hazardous wastes (all of which are included in CERCLA's definition of hazardous substances) to be as significant a problem as the disposal and/or release of those same wastes.

However, the Agency believes that establishing 6000 kilograms as the level below which the section 120(h) notice requirement for the storage of hazardous substances would not apply would be inappropriate. First, the allowed RCRA storage period of 6000 kg of hazardous wastes is six months rather than the one-year period mandated by section 120(h). Additionally, 6000 kg is approximately six tons (or around thirty 55-gallon barrels), which is a substantial amount. Therefore, EPA believes that a 6000 kg cutoff would be inconsistent with the intent of section 120(h).

Under RCRA, generators of no more than 100 kilograms (about 220 pounds or 25 gallons) of hazardous waste in any calendar month are considered conditionally exempt small quantity generators. Because such generators are exempt from many of the RCRA hazardous waste requirements, EPA considered using 100 kilograms as the cutoff for reporting the storage (for one year or more) of hazardous substances under section 120(h). However, since generators of 100 kilograms or less per month of hazardous waste are allowed to store up to 1000 kilograms on site, EPA believes that 1000 kilograms would be a more appropriate trigger level for the section 120(h) notice requirement for the storage of hazardous substances.

Therefore, EPA today proposes that the notice requirement for reporting the storage of hazardous substances under section 120(h) apply only to those hazardous substances that have been stored for one year or more at quantities of greater than or equal to 1000 kilograms. The exception to this would be for the storage of those substances that are considered acutely hazardous wastes under RCRA (40 CFR 261.30). The storage reporting requirement for acutely hazardous wastes under 120(h) would be one kilogram.

The Agency requests comment on the proposed definition of storage, on whether the concept of a quantitative trigger for the storage notice requirement is appropriate, and on the proposed 1000-kilogram storage trigger.

3. Definition of "Release"

The term "release" is defined under section 101(22) of CERCLA to mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substances or pollutant or contaminant). The definition also excludes certain categories of releases from the requirements of CERCLA (see CERCLA section 101(22)).

4. Definition of "Disposal"

The term "disposal" is not defined under CERCLA. Therefore, EPA proposes to use the definition of the term in RCRA, again by substituting the word "substances" for the word "wastes." Thus, the term "disposal," for the purposes of implementing 120(h), is proposed to mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater. The Agency requests comment on this proposed definition of the term "disposal."

G. Form and Manner of Notice

Section 120(h)(2) requires EPA to promulgate regulations specifying the form and manner of the notice of hazardous substance activity that is to be included in the contract of sale or transfer of real property owned by the United States. EPA is proposing one approach and describing an alternative approach to the form and manner of the notice required by section 120(h). Both approaches are explained below.

The proposed approach would require that the notice for reporting hazardous substance activity under CERCLA section 120(h) contain information similar to that required for reporting the release of hazardous substances under CERCLA section 102 and by 40 CFR 302.4. While the notice would not necessarily have to take the form of the sample provided, the notice would at a minimum, be required to list the name of the hazardous substance; the Chemical Abtracts Services Registry Number (CASRN) where applicable; the regulatory synonym (where applicable)

as found in 40 CFR 302.4; the RCRA hazardous waste number (where applicable) as found at 40 CFR 260.30, and the quantity, if greater than 1,000 kilograms (or one kilogram for acutely hazardous wastes), of each hazardous substance stored for one year or more, or released or disposed of on the property, and dates of such storage, release, or disposal. The notice would be required to carry the following statement, prominently displayed: "The information contained in this notice is required under the authority of regulations promulgated by the Environmental Protection Agency under section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund")."

Under the alternative approach that EPA is considering, agencies would use GSA form SF 118b to comply with section 120(h)(1). Column i on GSA form 118b requires "a description of any reservations or exceptions running with the land or imposed by the holding agency," such as outstanding mineral rights, easements, rights-of-way, railroads, and contamination. If GSA form 118b is used, EPA would require that the disposing agency provide (in an addendum to 118b(i), if necessary), at a minimum, the same information required in the proposed approach described above. The notice would also contain the statement described above indicating that the notice and the information contained in it was generated in response to requirements promulgated under section 120(h) of CERCLA. The Agency requests comments on both approaches to the form of the notice required by section 120(h), and also requests submission of any appropriate alternative approaches during the comment period.

III. Regulatory Analysis

A. Regulatory Impact Analyses

Executive Order 12291 requires EPA to assess the effect of contemplated Agency actions during the development of regulations. Such an assessment consists of a quantification of the potential benefits and costs of the rule, as well as a description of any beneficial or adverse effects that cannot be quanitified in monetary terms. In addition, Executive Order 12291 requires that regulatory agencies prepare an analysis of the regulatory impact of major rules. Major rules are defined as those likely to result in:

1. An annual cost to economy of $100 million or more; or

2. A major increase in costs or prices for consumers or individual industries; or

3. Significant adverse effects on competition, employment, investment, innovation, or international trade.

Because this proposed rule affects only agencies, departments, or instrumentalities of the United States, no formal Regulatory Impact Analysis was conducted. However, EPA has attempted to ascertain the expected costs of the proposed regulation and several of the possible or proposed alternatives. As proposed, the regulations would cost the government approximately $700,000 per year. If the proposed notice exclusion for residential properties is not included, the cost per year to the government is approximately $2,000,000, an increase of approximately 62 percent. EPA was not able to ascertain the economic relief that may be provided by the proposed storage trigger.

This rule has been submitted to the Office of Management and Budget for review as required by Executive Order 12291.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). Since this proposed rule affects only agencies, departments, or instrumentalities of the United States, no regulatory flexibility analysis is required. Therefore, EPA certifies that the rule will not have significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This proposed rule only affects entities of the Federal government. Therefore, the reporting and notification requirements contained in this rule are not subject to approval by the Office of Management and Budget (OMB) under provisions of the Paperwork Reduction Act of 1980. 44 U.S.C. 35501, *et seq.*

IV. References

(1) U.S. EPA. "Background Document for the Federal Real Property Transfer Regulations as Authorized by section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act." U.S. EPA, OWPE, Washington, DC, 1987.

List of Subjects in 40 CFR Part 373

Federal facilities, Federal real property transfer, Environmental protection, Hazardous substances, Hazardous materials, Reporting and recordkeeping requirements, Superfund, Hazardous substance storage, release, and disposal.

Date: January 4, 1988.

Lee M. Thomas,

Administrator.

Therefore, for the reasons set out in the preamble, it is proposed that Chapter I of Title 40 of the Code of Federal Regulations be amended as follows:

1. Part 373 is added to read as follows:

PART 373—REPORTING HAZARDOUS SUBSTANCE ACTIVITY WHEN SELLING OR TRANSFERRING FEDERAL REAL PROPERTY

Sec.

Authority: Sec. 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*

§ 373.1 General requirement.

Effective October 17, 1988, whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of the such department, agency, or instrumentality must include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

§ 373.2 Applicability.

(a) The notice required by 40 CFR 373.1 applies to all real property sold or transferred by the United States except for those properties which are acquired by the United States through foreclosure proceedings, and which are residential properties that are one- to four-family residences used to provide not more than four dwelling units, including accessory land, buildings, and improvements incidental to such dwellings.

(b) The notice required by 40 CFR 373.1 for the storage for one year or

more of hazardous substances applies only when hazardous substances are or have been stored in quantities greater than or equal to 1000 kilograms, except that hazardous substances that are also listed under 40 CFR 261.30 as acutely hazardous wastes, and that are stored for one year or more, are subject to the notice requirement when stored in quantities greater than or equal to one kilogram.

§ 373.3 Content of notice.

The notice required by 40 CFR 373.1 must contain the following information:

(a) The name of the hazardous substance; the Chemical Abstracts Services Registry Number (CASRN) where applicable; the regulatory synonym for the hazardous substance, as listed in 40 CFR 302.4, where applicable; the RCRA hazardous waste number specified in 40 CFR 261.30, where applicable; the quantity in kilograms and pounds of the hazardous substance that has been stored for one year or more, or released or disposed of on the property, and the date(s) that such storage, release, or disposal took place.

(b) The following statement, prominently displayed: "The information contained in this notice is required under the authority of regulations promulated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or "Superfund").

§ 373.4 Definitions.

For the purposes of implementing this regulation, the following definitions apply:

(a) "Department, agency, or instrumentality" means those entities or organizations created or chartered by the legislative, executive or judicial branches of the Federal government, including those corporations that are chartered by the Federal government.

(b) "Hazardous substances" means that group of substances defined as hazardous under CERCLA section 101(14), and that appear at 40 CFR 302.4.

(c) "Storage" means the holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.

(d) "Release" is defined as specified by CERCLA section 101(22).

(e) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

(f) "Complete search of agency files" means a thorough review by the transferring agency of any and all files and records, including archives, held by the agency and parent agency relating to the present and past use(s) of the real property being sold or transferred. The transferring agency must search the areas where files relating to the history and use of the property are normally kept, with particular emphasis upon records held or obtainable without undue burden that relate to the environmental compliance obligations of the owner of the realty as discharged by or on behalf of the agency.

[FR Doc. 88-501 Filed 1-12-88; 8:45 am]

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Computer Security Act of 1987. (Jan. 8, 1988; 101 Stat. 1724; 7 pages) Price: $1.00

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To amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order. (Jan. 8, 1988; 101 Stat. 1731; 2 pages) Price: $1.00

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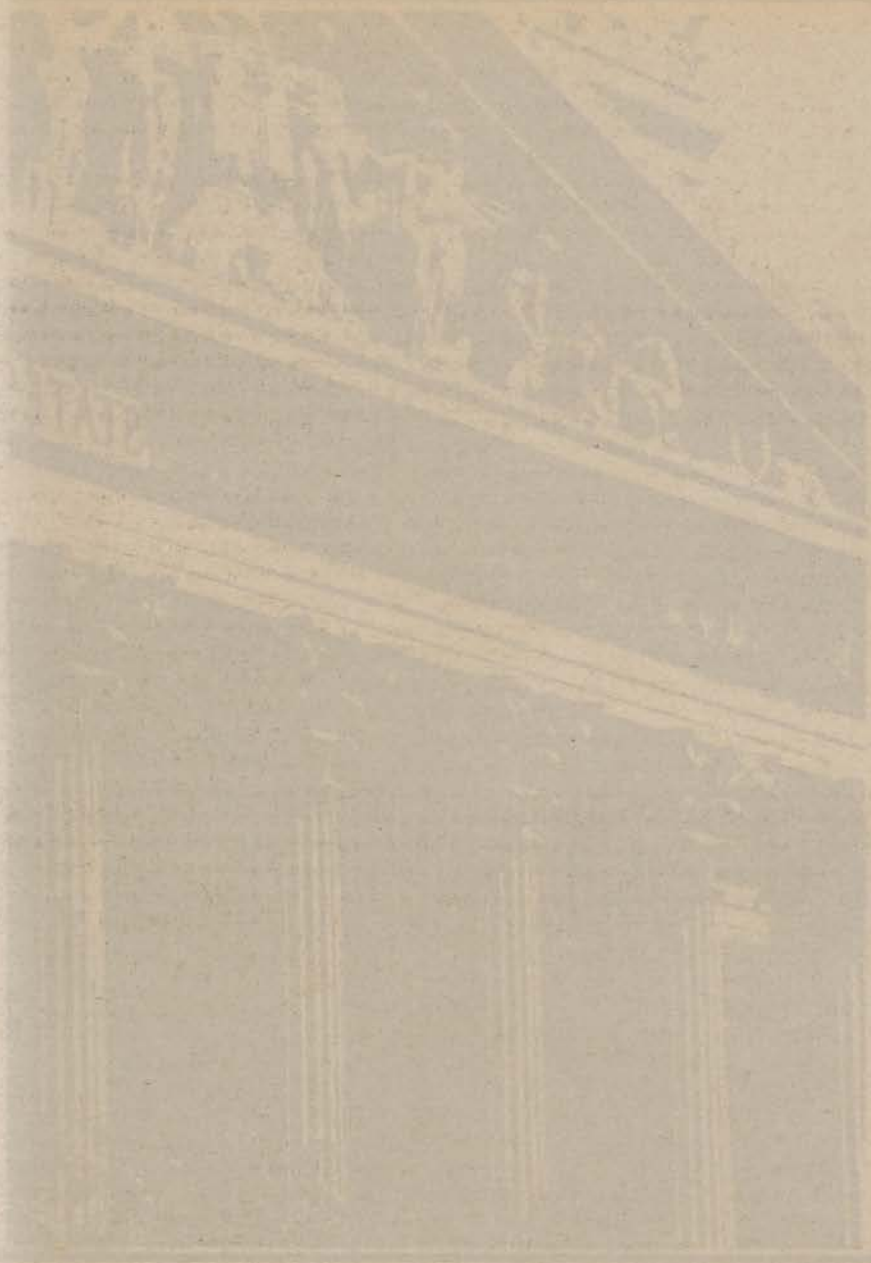

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